

AMENDED IN SENATE JUNE 4, 2007
AMENDED IN SENATE MARCH 29, 2007

SENATE BILL

No. 534

Introduced by Senator Perata

February 22, 2007

An act to amend Sections 101, 205, 1601.1, 1616.5, 1621, 1670.1, 1680, 1721, 1721.5, 1725, 1741, 1742, 1742.1, 1743, 1744, 1770, 1771, 4999.2, and 4999.7 of, to add Article 9 (commencing with Section 1900) to Chapter 4 of Division 2 of, and to repeal Sections 1760, 1760.5, 1761, 1762, 1763, 1764, 1765, 1766, 1768, 1769, 1772, 1774, and 1775 of, the Business and Professions Code, to amend Section 44876 of the Education Code, and to amend Sections 1348.8 and 128160 of the Health and Safety Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 534, as amended, Perata. Dentistry: dental hygienists.

(1) Existing law provides for the licensure and regulation of the practice of dentistry by the Dental Board of California, and authorizes the board to appoint an executive officer. Existing law also establishes the Committee on Dental Auxiliaries within the jurisdiction of the board. The provisions establishing the board and authorizing the board to appoint an executive officer, are inoperative as of July 1, 2008, and are repealed as of January 1, 2009. The provisions establishing the committee are inoperative as of July 1, 2009, and are repealed as of January 1, 2010.

This bill would instead make these provisions inoperative on July 1, 2010, and would repeal them on January 1, 2011.

(2) Existing law, the Dental Practice Act, provides for the licensure and regulation of dental auxiliaries. Under that act, dental auxiliaries

are defined as including, among others, dental assistants, registered dental hygienists, registered dental hygienists in extended functions, and registered dental hygienists in alternative practice. The act makes the Committee on Dental Auxiliaries, which has a specified membership that includes 3 registered dental hygienist members, responsible for licensing those who practice as a dental auxiliary and makes the Dental Board of California responsible for all disciplinary actions against a dental auxiliary and for approving all of their continuing education requirements. Under the act, fees collected in connection with the practice of a dental auxiliary are deposited into the State Dental Auxiliary Fund, in the Professions and Vocations Fund.

This bill would rename the Committee on Dental Auxiliaries the Committee on Dental Assistants, and would revise the membership of the committee to remove the 3 registered dental hygienist members. The bill would also create the California Dental Hygiene Board in the Department of Consumer Affairs, with specified membership. The bill would establish criteria for licensure by the California Dental Hygiene Board of a registered dental hygienist, a registered dental hygienist in alternative practice, or a registered dental hygienist in extended practice. The bill would set forth the California Dental Hygiene Board's functions and duties, including issuing, reviewing, and revoking licenses, developing and administering examinations, determining fees and education programs and continuing education requirements for a registered dental hygienist, a registered dental hygienist in alternative practice, and a registered dental hygienist in extended functions, and adopting regulations.

This bill would create the State Dental Hygiene Fund in the Professions and Vocations Fund and would require that fees paid by licensees and certain fines be deposited into the fund. The bill would require a transfer of a specified amount into the fund from the State Dental Auxiliary Fund, which would be renamed the State Dental Assistant Fund. *The bill would also require that the funds deposited in the State Dentistry Fund, the State Dental Hygiene Fund, and the State Dental Assistant Fund be subject to appropriation by the Legislature in the annual Budget Act.*

This bill would specify acts that would constitute unprofessional conduct, and would also specify acts that would constitute crimes. The bill would require the California Dental Hygiene Board to establish a diversion program for licensees whose competency may be impaired

due to drug or alcohol abuse and to establish diversion evaluation committees, with specified duties in that regard.

Because a violation of certain provisions of the bill would be a crime, the bill would create a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 101 of the Business and Professions Code
2 is amended to read:
3 101. The department is comprised of:
4 (a) The Dental Board of California.
5 (b) The Medical Board of California.
6 (c) The State Board of Optometry.
7 (d) The California State Board of Pharmacy.
8 (e) The Veterinary Medical Board.
9 (f) The California Board of Accountancy.
10 (g) The California Architects Board.
11 (h) The Bureau of Barbering and Cosmetology.
12 (i) The Board for Professional Engineers and Land Surveyors.
13 (j) The Contractors' State License Board.
14 (k) The Bureau for Private Postsecondary and Vocational
15 Education.
16 (l) The Structural Pest Control Board.
17 (m) The Bureau of Home Furnishings and Thermal Insulation.
18 (n) The Board of Registered Nursing.
19 (o) The Board of Behavioral Sciences.
20 (p) The State Athletic Commission.
21 (q) The Cemetery and Funeral Bureau.
22 (r) The State Board of Guide Dogs for the Blind.
23 (s) The Bureau of Security and Investigative Services.
24 (t) The Court Reporters Board of California.
25 (u) The Board of Vocational Nursing and Psychiatric
26 Technicians.

- 1 (v) The Landscape Architects Technical Committee.
- 2 (w) The Bureau of Electronic and Appliance Repair.
- 3 (x) The Division of Investigation.
- 4 (y) The Bureau of Automotive Repair.
- 5 (z) The State Board of Registration for Geologists and
- 6 Geophysicists.
- 7 (aa) The Respiratory Care Board of California.
- 8 (ab) The Acupuncture Board.
- 9 (ac) The Board of Psychology.
- 10 (ad) The California Board of Podiatric Medicine.
- 11 (ae) The Physical Therapy Board of California.
- 12 (af) The Arbitration Review Program.
- 13 (ag) The Committee on Dental Assistants.
- 14 (ah) The Hearing Aid Dispensers Bureau.
- 15 (ai) The Physician Assistant Committee.
- 16 (aj) The Speech-Language Pathology and Audiology Board.
- 17 (ak) The California Board of Occupational Therapy.
- 18 (al) The Osteopathic Medical Board of California.
- 19 (am) The Bureau of Naturopathic Medicine.
- 20 (an) The California Dental Hygiene Board.
- 21 (ao) Any other boards, offices, or officers subject to its
- 22 jurisdiction by law.
- 23 SEC. 2. Section 205 of the Business and Professions Code is
- 24 amended to read:
- 25 205. (a) There is in the State Treasury the Professions and
- 26 Vocations Fund. The fund shall consist of the following special
- 27 funds:
- 28 (1) Accountancy Fund.
- 29 (2) California Board of Architectural Examiners' Fund.
- 30 (3) Athletic Commission Fund.
- 31 (4) Barbering and Cosmetology Contingent Fund.
- 32 (5) Cemetery Fund.
- 33 (6) Contractors' License Fund.
- 34 (7) State Dentistry Fund.
- 35 (8) State Funeral Directors and Embalmers Fund.
- 36 (9) Guide Dogs for the Blind Fund.
- 37 (10) Bureau of Home Furnishings and Thermal Insulation Fund.
- 38 (11) California Board of Architectural Examiners-Landscape
- 39 Architects Fund.
- 40 (12) Contingent Fund of the Medical Board of California.

- 1 (13) Optometry Fund.
- 2 (14) Pharmacy Board Contingent Fund.
- 3 (15) Physical Therapy Fund.
- 4 (16) Private Investigator Fund.
- 5 (17) Professional Engineers' and Land Surveyors' Fund.
- 6 (18) Consumer Affairs Fund.
- 7 (19) Behavioral Sciences Fund.
- 8 (20) Licensed Midwifery Fund.
- 9 (21) Court Reporters' Fund.
- 10 (22) Structural Pest Control Fund.
- 11 (23) Veterinary Medical Board Contingent Fund.
- 12 (24) Vocational Nurses Account of the Vocational Nursing and
- 13 Psychiatric Technicians Fund.
- 14 (25) State Dental Assistant Fund.
- 15 (26) Electronic and Appliance Repair Fund.
- 16 (27) Geology and Geophysics Fund.
- 17 (28) Dispensing Opticians Fund.
- 18 (29) Acupuncture Fund.
- 19 (30) Hearing Aid Dispensers Fund.
- 20 (31) Physician Assistant Fund.
- 21 (32) Board of Podiatric Medicine Fund.
- 22 (33) Psychology Fund.
- 23 (34) Respiratory Care Fund.
- 24 (35) Speech-Language Pathology and Audiology Fund.
- 25 (36) Board of Registered Nursing Fund.
- 26 (37) Psychiatric Technician Examiners Account of the
- 27 Vocational Nursing and Psychiatric Technicians Fund.
- 28 (38) Animal Health Technician Examining Committee Fund.
- 29 (39) Structural Pest Control Education and Enforcement Fund.
- 30 (40) Structural Pest Control Research Fund.
- 31 (41) State Dental Hygiene Fund.
- 32 (b) For accounting and recordkeeping purposes, the Professions
- 33 and Vocations Fund shall be deemed to be a single special fund,
- 34 and each of the several special funds therein shall constitute and
- 35 be deemed to be a separate account in the Professions and
- 36 Vocations Fund. Each account or fund shall be available for
- 37 expenditure only for the purposes as are now or may hereafter be
- 38 provided by law.
- 39 SEC. 3. Section 1601.1 of the Business and Professions Code
- 40 is amended to read:

1601.1. (a) There shall be in the Department of Consumer Affairs the Dental Board of California in which the administration of this chapter is vested. The board shall consist of eight practicing dentists, one registered dental hygienist, one registered dental assistant, and four public members. Of the eight practicing dentists, one shall be a member of a faculty of any California dental college and one shall be a dentist practicing in a nonprofit community clinic. The appointing powers, described in Section 1603, may appoint to the board a person who was a member of the prior board. The board shall be organized into standing committees dealing with examinations, enforcement, and other subjects as the board deems appropriate.

(b) For purposes of this chapter, any reference in this chapter to the Board of Dental Examiners shall be deemed to refer to the Dental Board of California.

(c) The board shall have all authority previously vested in the existing board under this chapter. The board may enforce all disciplinary actions undertaken by the previous board.

(d) This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute that is enacted before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 4. Section 1616.5 of the Business and Professions Code is amended to read:

1616.5. (a) The board, by and with the approval of the director, may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

(b) This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute that is enacted before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 5. Section 1621 of the Business and Professions Code is amended to read:

1621. The board shall utilize in the administration of its licensure examinations only examiners whom it has appointed and who meet the following criteria:

1 (a) Possession of a valid license to practice dentistry in this state
2 or possession of a valid license in one of the following categories:
3 registered dental assistant, registered dental assistant in extended
4 functions, registered dental hygienist, registered dental hygienist
5 in extended functions, or registered dental hygienist in alternative
6 practice.

7 (b) Practice as a licensed dentist or in a licensure category
8 described in subdivision (a) for at least five years preceding his or
9 her appointment.

10 (c) Hold no position as an officer or faculty member at any
11 college, school, or institution that provides dental instruction in
12 the same licensure category as that held by the examiner.

13 SEC. 6. Section 1670.1 of the Business and Professions Code
14 is amended to read:

15 1670.1. (a) Any licentiate under this chapter may have his or
16 her license revoked or suspended or be reprimanded or be placed
17 on probation by the board for conviction of a crime substantially
18 related to the qualifications, functions, or duties of a dentist, dental
19 auxiliary, or registered dental hygienist, in which case the record
20 of conviction or a certified copy thereof, certified by the clerk of
21 the court or by the judge in whose court the conviction is had, shall
22 be conclusive evidence.

23 (b) The board shall undertake proceedings under this section
24 upon the receipt of a certified copy of the record of conviction. A
25 plea or verdict of guilty or a conviction following a plea of nolo
26 contendere made to a charge of a felony or of any misdemeanor
27 substantially related to the qualifications, functions, or duties of a
28 dentist, dental auxiliary, or registered dental hygienist is deemed
29 to be a conviction within the meaning of this section. The board
30 may order the license suspended or revoked, or may decline to
31 issue a license, when the time for appeal has elapsed, or the
32 judgment of conviction has been affirmed on appeal or when an
33 order granting probation is made suspending the imposition of
34 sentence, irrespective of a subsequent order under any provision
35 of the Penal Code, including, but not limited to, Section 1203.4
36 of the Penal Code, allowing the person to withdraw his or her plea
37 of guilty and to enter a plea of not guilty, or setting aside the verdict
38 of guilty, or dismissing the accusation, information or indictment.

39 SEC. 7. Section 1680 of the Business and Professions Code is
40 amended to read:

1 1680. Unprofessional conduct by a person licensed under this
2 chapter is defined as, but is not limited to, any one of the following:

3 (a) The obtaining of any fee by fraud or misrepresentation.

4 (b) The employment directly or indirectly of any student or
5 suspended or unlicensed dentist to practice dentistry as defined in
6 this chapter.

7 (c) The aiding or abetting of any unlicensed person to practice
8 dentistry.

9 (d) The aiding or abetting of a licensed person to practice
10 dentistry unlawfully.

11 (e) The committing of any act or acts of sexual abuse,
12 misconduct, or relations with a patient that are substantially related
13 to the practice of dentistry.

14 (f) The use of any false, assumed, or fictitious name, either as
15 an individual, firm, corporation, or otherwise, or any name other
16 than the name under which he or she is licensed to practice, in
17 advertising or in any other manner indicating that he or she is
18 practicing or will practice dentistry, except that name as is specified
19 in a valid permit issued pursuant to Section 1701.5.

20 (g) The practice of accepting or receiving any commission or
21 the rebating in any form or manner of fees for professional services,
22 radiograms, prescriptions, or other services or articles supplied to
23 patients.

24 (h) The making use by the licensee or any agent of the licensee
25 of any advertising statements of a character tending to deceive or
26 mislead the public.

27 (i) The advertising of either professional superiority or the
28 advertising of performance of professional services in a superior
29 manner. This subdivision shall not prohibit advertising permitted
30 by subdivision (h) of Section 651.

31 (j) The employing or the making use of solicitors.

32 (k) The advertising in violation of Section 651.

33 (l) The advertising to guarantee any dental service, or to perform
34 any dental operation painlessly. This subdivision shall not prohibit
35 advertising permitted by Section 651.

36 (m) The violation of any of the provisions of law regulating the
37 procurement, dispensing, or administration of dangerous drugs,
38 as defined in Chapter 9 (commencing with Section 4000), or
39 controlled substances, as defined in Division 10 (commencing
40 with Section 11000) of the Health and Safety Code.

1 (n) The violation of any of the provisions of this division.

2 (o) The permitting of any person to operate dental radiographic
3 equipment who has not met the requirements of Section 1656.

4 (p) The clearly excessive prescribing or administering of drugs
5 or treatment, or the clearly excessive use of diagnostic procedures,
6 or the clearly excessive use of diagnostic or treatment facilities,
7 as determined by the customary practice and standards of the dental
8 profession.

9 Any person who violates this subdivision is guilty of a
10 misdemeanor and shall be punished by a fine of not less than one
11 hundred dollars (\$100) or more than six hundred dollars (\$600),
12 or by imprisonment for a term of not less than 60 days or more
13 than 180 days, or by both a fine and imprisonment.

14 (q) The use of threats or harassment against any patient or
15 licensee for providing evidence in any possible or actual
16 disciplinary action, or other legal action; or the discharge of an
17 employee primarily based on the employee's attempt to comply
18 with the provisions of this chapter or to aid in the compliance.

19 (r) Suspension or revocation of a license issued, or discipline
20 imposed, by another state or territory on grounds which would be
21 the basis of discipline in this state.

22 (s) The alteration of a patient's record with intent to deceive.

23 (t) Unsanitary or unsafe office conditions, as determined by the
24 customary practice and standards of the dental profession.

25 (u) The abandonment of the patient by the licensee, without
26 written notice to the patient that treatment is to be discontinued
27 and before the patient has ample opportunity to secure the services
28 of another dentist or registered dental hygienist and provided the
29 health of the patient is not jeopardized.

30 (v) The willful misrepresentation of facts relating to a
31 disciplinary action to the patients of a disciplined licensee.

32 (w) Use of fraud in the procurement of any license issued
33 pursuant to this chapter.

34 (x) Any action or conduct that would have warranted the denial
35 of the license.

36 (y) The aiding or abetting of a licensed dentist, dental auxiliary,
37 or registered dental hygienist to practice dentistry in a negligent
38 or incompetent manner.

39 (z) The failure to report to the board in writing within seven
40 days any of the following: (1) the death of his or her patient during

1 the performance of any dental or dental hygiene procedure; (2) the
2 discovery of the death of a patient whose death is related to a dental
3 or dental hygiene procedure performed by him or her; or (3) except
4 for a scheduled hospitalization, the removal to a hospital or
5 emergency center for medical treatment for a period exceeding 24
6 hours of any patient to whom oral conscious sedation, conscious
7 sedation, or general anesthesia was administered, or any patient
8 as a result of dental or dental hygiene treatment. With the exception
9 of patients to whom oral conscious sedation, conscious sedation,
10 or general anesthesia was administered, removal to a hospital or
11 emergency center that is the normal or expected treatment for the
12 underlying dental condition is not required to be reported. Upon
13 receipt of a report pursuant to this subdivision the board may
14 conduct an inspection of the dental office if the board finds that it
15 is necessary.

16 (aa) Participating in or operating any group advertising and
17 referral services that are in violation of Section 650.2.

18 (ab) The failure to use a fail-safe machine with an appropriate
19 exhaust system in the administration of nitrous oxide. The board
20 shall, by regulation, define what constitutes a fail-safe machine.

21 (ac) Engaging in the practice of dentistry or dental hygiene with
22 an expired license.

23 (ad) Except for good cause, the knowing failure to protect
24 patients by failing to follow infection control guidelines of the
25 board, thereby risking transmission of blood-borne infectious
26 diseases from dentist, dental auxiliary, or registered dental hygienist
27 to patient, from patient to patient, and from patient to dentist, dental
28 auxiliary, or registered dental hygienist. In administering this
29 subdivision, the board shall consider referencing the standards,
30 regulations, and guidelines of the State Department of Health
31 Services developed pursuant to Section 1250.11 of the Health and
32 Safety Code and the standards, guidelines, and regulations pursuant
33 to the California Occupational Safety and Health Act of 1973 (Part
34 1 (commencing with Section 6300) of Division 5 of the Labor
35 Code) for preventing the transmission of HIV, hepatitis B, and
36 other blood-borne pathogens in health care settings. As necessary,
37 the board shall consult with the Medical Board of California, the
38 California Board of Podiatric Medicine, the Board of Registered
39 Nursing, and the Board of Vocational Nursing and Psychiatric

1 Technicians, to encourage appropriate consistency in the
2 implementation of this subdivision.

3 The board shall seek to ensure that licensees and others regulated
4 by the board are informed of the responsibility of licensees and
5 others to follow infection control guidelines, and of the most recent
6 scientifically recognized safeguards for minimizing the risk of
7 transmission of blood-borne infectious diseases.

8 (ae) The utilization by a licensed dentist of any person to
9 perform the functions of a registered dental assistant, registered
10 dental assistant in extended functions, registered dental hygienist,
11 or registered dental hygienist in extended functions who, at the
12 time of initial employment, does not possess a current, valid license
13 to perform those functions.

14 (af) The prescribing, dispensing, or furnishing of dangerous
15 drugs or devices, as defined in Section 4022, in violation of Section
16 2242.1.

17 SEC. 8. Section 1721 of the Business and Professions Code is
18 amended to read:

19 1721. Except as provided in Sections 1721.5 and 1945, all
20 funds received by the Treasurer under the authority of this chapter
21 shall be placed in the State Dentistry Fund. ~~Except Expenditure~~
22 ~~of those funds shall be subject to appropriation by the Legislature~~
23 ~~in the annual Budget Act. Subject to that appropriation, and except~~
24 as provided in Sections 1721.5 and 1945, all disbursements by the
25 board made in the transaction of its business and in the enforcement
26 of this chapter shall be paid out of the fund upon claims against
27 the state.

28 SEC. 9. Section 1721.5 of the Business and Professions Code
29 is amended to read:

30 1721.5. All funds received by the Treasurer under the authority
31 of this chapter that relate to registered dental assistants shall be
32 placed in the State Dental Assistant Fund for the purposes of
33 administering this chapter as it relates to registered dental
34 assistants. *Expenditure of those funds shall be subject to*
35 *appropriation by the Legislature in the annual Budget Act.*

36 SEC. 10. Section 1725 of the Business and Professions Code
37 is amended to read:

38 1725. The amount of the fees prescribed by this chapter that
39 relate to the licensing of dental auxiliaries shall be established by
40 board resolution and subject to the following limitations:

1 (a) The application fee for an original license shall not exceed
2 twenty dollars (\$20).

3 (b) (1) The fee for examination for licensure as a registered
4 dental assistant shall not exceed fifty dollars (\$50) for the written
5 examination and shall not exceed sixty dollars (\$60) for the
6 practical examination.

7 (2) On and after January 1, 2008, the fee for application and for
8 the issuance of a license as a registered orthodontic assistant,
9 registered surgery assistant, registered restorative assistant, or
10 registered dental assistant shall not exceed fifty dollars (\$50), and
11 the fee for the practical examination for licensure as a registered
12 orthodontic assistant, registered surgery assistant, or registered
13 restorative assistant shall not exceed sixty dollars (\$60).

14 (c) The fee for examination for licensure as a registered dental
15 assistant in extended functions or a registered restorative assistant
16 in extended functions shall not exceed two hundred fifty dollars
17 (\$250).

18 (d) The biennial renewal fee for a dental auxiliary shall not
19 exceed eighty dollars (\$80).

20 (e) The delinquency fee shall not exceed twenty-five dollars
21 (\$25) or one-half of the renewal fee, whichever is greater. Any
22 delinquent license may be restored only upon payment of all fees,
23 including the delinquency fee.

24 (f) The fee for issuance of a duplicate registration, license, or
25 certificate to replace one that is lost or destroyed, or in the event
26 of a name change, shall not exceed twenty-five dollars (\$25).

27 (g) The fee for each curriculum review and site evaluation for
28 educational programs for registered dental assistants that are not
29 accredited by a board-approved agency, the Council for Private
30 Postsecondary and Vocational Education, or the Chancellor's office
31 of the California Community Colleges shall not exceed one
32 thousand four hundred dollars (\$1,400).

33 (h) The fee for each review of radiation safety courses or
34 specialty registration courses that are not accredited by a
35 board-approved agency, the Council for Private Postsecondary
36 and Vocational Education, or the Chancellor's office of the
37 California Community Colleges shall not exceed three hundred
38 dollars (\$300).

39 (i) No fees or charges other than those listed in subdivisions (a)
40 through (h) shall be levied by the board in connection with the

1 licensure of dental auxiliaries, registered dental assistants
2 educational program site evaluations and radiation safety course
3 evaluations pursuant to this chapter.

4 (j) Fees fixed by the board pursuant to this section shall not be
5 subject to the approval of the Office of Administrative Law.

6 (k) Fees collected pursuant to this section shall be deposited in
7 the State Dental Assistant Fund.

8 SEC. 11. Section 1741 of the Business and Professions Code
9 is amended to read:

10 1741. As used in this article:

11 (a) "Board" means the Dental Board of California.

12 (b) "Committee" means the Committee on Dental Assistants.

13 (c) "Direct supervision" means supervision of dental procedures
14 based on instructions given by a licensed dentist, who must be
15 physically present in the treatment facility during the performance
16 of those procedures.

17 (d) "General supervision" means supervision of dental
18 procedures based on instructions given by a licensed dentist but
19 not requiring the physical presence of the supervising dentist during
20 the performance of those procedures.

21 (e) "Dental auxiliary" means a person who may perform dental
22 assisting procedures authorized by this article.

23 SEC. 12. Section 1742 of the Business and Professions Code
24 is amended to read:

25 1742. (a) There is within the jurisdiction of the board a
26 Committee on Dental Assistants.

27 (b) The Committee on Dental Assistants shall have the following
28 areas of responsibility and duties:

29 (1) The committee shall have the following duties and authority
30 related to education programs and curriculum:

31 (A) Shall evaluate all dental auxiliary programs applying for
32 board approval in accordance with board rules governing the
33 programs.

34 (B) May appoint board members to any evaluation committee.
35 Board members so appointed shall not make a final decision on
36 the issue of program or course approval.

37 (C) Shall report and make recommendations to the board as to
38 whether a program or course qualifies for approval. The board
39 retains the final authority to grant or deny approval to a program
40 or course.

1 (D) Shall review and document any alleged deficiencies that
2 might warrant board action to withdraw or revoke approval of a
3 program or course, at the request of the board.

4 (E) May review and document any alleged deficiencies that
5 might warrant board action to withdraw or revoke approval of a
6 program or course, at its own initiation.

7 (2) The committee shall have the following duties and authority
8 related to applications:

9 (A) Shall review and evaluate all applications for licensure in
10 the various dental auxiliary categories to ascertain whether a
11 candidate meets the appropriate licensing requirements specified
12 by statute and board regulations.

13 (B) Shall maintain application records, cashier application fees,
14 and perform any other ministerial tasks as are incidental to the
15 application process.

16 (C) May delegate any or all of the functions in this paragraph
17 to its staff.

18 (D) Shall issue dental auxiliary licenses in all cases, except
19 where there is a question as to a licensing requirement. The board
20 retains final authority to interpret any licensing requirement. If a
21 question arises in the area of interpreting any licensing requirement,
22 it shall be presented by the committee to the board for resolution.

23 (3) The committee shall have the following duties and authority
24 regarding examinations:

25 (A) Shall advise the board as to the type of license examination
26 it deems appropriate for the various dental auxiliary license
27 categories.

28 (B) Shall, at the direction of the board, develop or cause to be
29 developed, administer, or both, examinations in accordance with
30 the board's instructions and periodically report to the board on the
31 progress of those examinations. The following shall apply to the
32 examination procedure:

33 (i) The examination shall be submitted to the board for its
34 approval prior to its initial administration.

35 (ii) Once an examination has been approved by the board, no
36 further approval is required unless a major modification is made
37 to the examination.

38 (iii) The committee shall report to the board on the results of
39 each examination and shall, where appropriate, recommend pass
40 points.

1 (iv) The board shall set pass points for all dental auxiliary
2 licensing examinations.

3 (C) May appoint board members to any examination committee
4 established pursuant to subparagraph (B).

5 (4) The committee shall periodically report and make
6 recommendations to the board concerning the level of fees for
7 dental auxiliaries and the need for any legislative fee increase.
8 However, the board retains final authority to set all fees.

9 (5) The committee shall be responsible for all aspects of the
10 license renewal process, which shall be accomplished in accordance
11 with this chapter and board regulations. The committee may
12 delegate any or all of its functions under this paragraph to its staff.

13 (6) The committee shall have no authority with respect to the
14 approval of continuing education providers and the board retains
15 all of this authority.

16 (7) The committee shall advise the board as to appropriate
17 standards of conduct for dental auxiliaries, the proper ordering of
18 enforcement priorities, and any other enforcement-related matters
19 that the board may, in the future, delegate to the committee. The
20 board shall retain all authority with respect to the enforcement
21 actions, including, but not limited to, complaint resolution,
22 investigation, and disciplinary action against dental auxiliaries.

23 (8) The committee shall have the following duties regarding
24 regulations:

25 (A) To review and evaluate all suggestions or requests for
26 regulatory changes related to dental auxiliaries.

27 (B) To report and make recommendations to the board, after
28 consultation with departmental legal counsel and the board's
29 executive officer.

30 (C) To include in any report regarding a proposed regulatory
31 change, at a minimum, the specific language of the proposed
32 changes and the reasons for and facts supporting the need for the
33 change. The board has the final rulemaking authority.

34 (c) This section shall become inoperative on July 1, 2010, and,
35 as of January 1, 2011, is repealed, unless a later enacted statute
36 which becomes effective on or before January 1, 2011, deletes or
37 extends the dates on which it becomes inoperative and is repealed.
38 The repeal of this section renders the committee subject to the
39 review required by Division 1.2 (commencing with Section 473).

1 SEC. 13. Section 1742.1 of the Business and Professions Code
2 is amended to read:

3 1742.1. Protection of the public shall be the highest priority
4 for the Committee on Dental Assistants in exercising its licensing,
5 regulatory, and disciplinary functions. Whenever the protection
6 of the public is inconsistent with other interests sought to be
7 promoted, the protection of the public shall be paramount.

8 SEC. 14. Section 1743 of the Business and Professions Code
9 is amended to read:

10 1743. The committee shall consist of the following six
11 members:

12 (a) One member who is a public member of the board, one
13 member who is a licensed dentist and who has been appointed by
14 the board as an examiner pursuant to Section 1621, one member
15 who is a licensed dentist who is neither a board member nor
16 appointed by the board as an examiner pursuant to Section 1621
17 and three members who are licensed as registered dental assistants.
18 If available, an individual licensed as a registered dental assistant
19 in extended functions shall be appointed in place of one of the
20 members licensed as a registered dental assistant.

21 (b) The public member of the board shall not have been licensed
22 under this chapter within five years of the appointment date and
23 shall not have any current financial interest in a dental-related
24 business.

25 SEC. 15. Section 1744 of the Business and Professions Code
26 is amended to read:

27 1744. (a) The members of the committee shall be appointed
28 by the Governor. Appointments shall be for a term of four years.

29 (b) No member shall serve as a member of the committee for
30 more than two consecutive terms. Vacancies shall be filled by
31 appointment for the unexpired terms. The committee shall annually
32 elect one of its members as chairperson.

33 (c) The Governor shall have the power to remove any member
34 of the committee from office for neglect of any duty required by
35 law or for incompetence or unprofessional or dishonorable conduct.

36 SEC. 16. Section 1760 of the Business and Professions Code
37 is repealed.

38 SEC. 17. Section 1760.5 of the Business and Professions Code
39 is repealed.

1 SEC. 18. Section 1761 of the Business and Professions Code
2 is repealed.
3 SEC. 19. Section 1762 of the Business and Professions Code
4 is repealed.
5 SEC. 20. Section 1763 of the Business and Professions Code
6 is repealed.
7 SEC. 21. Section 1764 of the Business and Professions Code
8 is repealed.
9 SEC. 22. Section 1765 of the Business and Professions Code
10 is repealed.
11 SEC. 23. Section 1766 of the Business and Professions Code
12 is repealed.
13 SEC. 24. Section 1768 of the Business and Professions Code
14 is repealed.
15 SEC. 25. Section 1769 of the Business and Professions Code
16 is repealed.
17 SEC. 26. Section 1770 of the Business and Professions Code,
18 as amended by Section 23 of Chapter 621 of the Statutes of 2005,
19 is amended to read:
20 1770. A licensed dentist may simultaneously utilize in his or
21 her practice no more than three dental auxiliaries in extended
22 functions or registered dental hygienists in extended functions
23 licensed pursuant to Sections 1753 and 1918.
24 SEC. 27. Section 1771 of the Business and Professions Code
25 is amended to read:
26 1771. Any person, other than a person who has been issued a
27 license by the board, who holds himself or herself out as a
28 registered dental assistant or registered dental assistant in extended
29 functions, or uses any other term indicating or implying he or she
30 is licensed by the board as such, is guilty of a misdemeanor.
31 SEC. 28. Section 1772 of the Business and Professions Code
32 is repealed.
33 SEC. 29. Section 1774 of the Business and Professions Code
34 is repealed.
35 SEC. 30. Section 1775 of the Business and Professions Code
36 is repealed.
37 SEC. 31. Article 9 (commencing with Section 1900) is added
38 to Chapter 4 of Division 2 of the Business and Professions Code,
39 to read:

Article 9. Dental Hygienists

1900. It is the intent of the Legislature by enactment of this article to permit the full utilization of dental hygienists in order to meet the dental care needs of all of the state's citizens.

1901. There is hereby created in the Department of Consumer Affairs a California Dental Hygiene Board in which the administration of this article is vested.

1902. For purposes of this article, the following definitions apply:

(a) "Dental board" means the Dental Board of California.

(b) "Direct supervision" means the supervision of dental procedures based on instructions given by a licensed dentist who is required to be physically present in the treatment facility during the performance of those procedures.

(c) "General supervision" means the supervision of dental procedures based on instructions given by a licensed dentist who is not required to be physically present in the treatment facility during the performance of those procedures.

(d) "Oral prophylaxis" means preventive and therapeutic dental procedures that include bacterial debridements with complete removal, supra and subgingivally, of calculus, soft deposits, plaque, and stains, and the smoothing of tooth surfaces. The objective of this treatment is to create an environment in which the patient can maintain healthy hard and soft tissues.

1903. (a) (1) The California Dental Hygiene Board shall consist of nine members appointed by the Governor. Four shall be public members, one member shall be a public health dentist who holds a current license in California, and four members shall be registered dental hygienists who hold current licenses in California. Of the registered dental hygienists members, one shall be licensed either in alternative practice or in extended functions, one shall be a dental hygiene educator, and two shall be registered dental hygienists. No public member shall have been licensed under this chapter within five years of the date of his or her appointment or have any current financial interest in a dental-related business.

(2) For purposes of this subdivision, a public health dentist is a dentist whose primary employer or place of employment is in any of the following:

1 (A) A primary care clinic licensed under subdivision (a) of
2 Section 1204 of the Health and Safety Code.

3 (B) A primary care clinic exempt from licensure pursuant to
4 subdivision (c) of Section 1206 of the Health and Safety Code.

5 (C) A clinic owned or operated by a public hospital or health
6 system.

7 (D) A clinic owned and operated by a hospital that maintains
8 the primary contract with a county government to fill the county's
9 role under Section 17000 of the Welfare and Institutions Code.

10 (b) Except for the initial term, members of the California Dental
11 Hygiene Board shall be appointed for a term of four years. Of the
12 initial appointments, the terms shall expire as follows:

13 (1) The term of the licensed dentist member, one of the public
14 members, and one of the registered dental hygienists shall expire
15 on December 31, 2008.

16 (2) The term of a second public member, the other registered
17 dental hygienist, and the registered dental hygienist in alternative
18 practice or in extended functions shall expire on December 31,
19 2009.

20 (3) The term of the remaining members shall expire on
21 December 31, 2010.

22 (c) The California Dental Hygiene Board shall elect a president,
23 a vice president, and a secretary from its membership.

24 (d) No person shall serve as a member of the California Dental
25 Hygiene Board for more than two consecutive terms.

26 (e) A vacancy in the California Dental Hygiene Board shall be
27 filled by appointment to the unexpired term.

28 (f) Each member of the California Dental Hygiene Board shall
29 receive a per diem and expenses as provided in Section 103.

30 (g) The Governor shall have the power to remove any member
31 from the California Dental Hygiene Board for neglect of a duty
32 required by law, for incompetence, or for unprofessional or
33 dishonorable conduct.

34 (h) The California Dental Hygiene Board, with the approval of
35 the director, may appoint a person exempt from civil service who
36 shall be designated as an executive officer and who shall exercise
37 the powers and perform the duties delegated by the California
38 Dental Hygiene Board and vested in him or her by this article.

1 1904. The California Dental Hygiene Board shall meet at least
2 two times each calendar year and shall conduct additional meetings
3 in appropriate locations that are necessary to transact its business.

4 1905. (a) The California Dental Hygiene Board shall perform
5 the following functions:

6 (1) Evaluate all registered dental hygienist, registered dental
7 hygienist in alternative practice, and registered dental hygienist in
8 extended functions educational programs that apply for approval
9 and granting or denying approval of those applications in
10 accordance with regulations adopted by the California Dental
11 Hygiene Board. Any such educational programs approved by the
12 dental board on or before December 31, 2007, shall be deemed
13 approved by the California Dental Hygiene Board.

14 (2) Withdraw or revoke its prior approval of a registered dental
15 hygienist, registered dental hygienist in alternative practice, or
16 registered dental hygienist in extended functions educational
17 program in accordance with regulations adopted by the California
18 Dental Hygiene Board.

19 (3) Review and evaluate all registered dental hygienist,
20 registered dental hygienist in alternative practice, and registered
21 dental hygienist in extended functions applications for licensure
22 to ascertain whether the applicant meets the appropriate licensing
23 requirements specified by statute and regulations, maintain
24 application records, cashier application fees, issue and renew
25 licenses, and perform any other tasks that are incidental to the
26 application and licensure processes.

27 (4) Determine the appropriate type of license examination
28 consistent with the provisions of this article, and develop or cause
29 to be developed and administer examinations in accordance with
30 regulations adopted by the California Dental Hygiene Board.

31 (5) Determine the amount of fees assessed under this article.

32 (6) Determine and enforce the continuing education
33 requirements specified in this article.

34 (7) Deny, suspend, or revoke a license under this article, or
35 otherwise enforce the provisions of this article. Any such
36 proceedings shall be conducted in accordance with Chapter 5
37 (commencing with Section 11500) of Part 1 of Division 3 of Title
38 2 of the Government Code, and the California Dental Hygiene
39 Board shall have all of the powers granted therein.

1 (8) Adopt rules and regulations to implement the provisions of
2 this article, including the required amount of supervision by a
3 licensed dentist of a registered dental hygienist, registered dental
4 hygienist in alternative practice, and registered dental hygienist in
5 extended functions.

6 (b) The California Dental Hygiene Board may employ
7 employees and examiners that it deems necessary to carry out its
8 functions and responsibilities under this article.

9 1905.1. Until January 1, 2009, the California Dental Hygiene
10 Board may contract with the dental board, or with the Committee
11 on Dental Assistants, to carry out any of the provisions of this
12 article. On and after January 1, 2009, the California Dental Hygiene
13 Board may contract with the dental board to perform investigations
14 of applicants and licensees under this article.

15 1906. (a) The California Dental Hygiene Board shall adopt
16 regulations to implement the requirements of this article.

17 (b) All regulations adopted by the California Dental Hygiene
18 Board shall comply with the provisions of Chapter 3.5
19 (commencing with Section 11340) of Part 1 of Division 3 of Title
20 2 of the Government Code.

21 (c) No regulation adopted by the California Dental Hygiene
22 Board shall impose a requirement or a prohibition directly upon a
23 licensed dentist or on the administration of a dental office, unless
24 specifically authorized by this article.

25 (d) Unless contrary to the provisions of this article, regulations
26 adopted by the dental board shall continue to apply to registered
27 dental hygienists, registered dental hygienists in alternative
28 practice, and registered dental hygienists in extended functions
29 until other regulations are adopted by the California Dental
30 Hygiene Board. All references in those regulations to “board” shall
31 mean the California Dental Hygiene Board, which shall solely
32 enforce the regulations with respect to registered dental hygienists,
33 registered dental hygienists in alternative practice, and registered
34 dental hygienists in extended functions.

35 1907. The following functions may be performed by a
36 registered dental hygienist in addition to those authorized pursuant
37 to Sections 1908 to 1914, inclusive:

38 (a) All functions that may be performed by a registered dental
39 assistant.

(b) All persons holding a license as a registered dental hygienist as of January 1, 2008, are authorized to perform the duties of a registered dental assistant specified in this chapter. All persons issued a license as a registered dental hygienist on or after January 1, 2008, shall qualify for and receive a registered dental assistant license prior to performance of the duties of a registered dental assistant specified in this chapter.

1908. (a) The practice of dental hygiene includes dental hygiene assessment and development, planning, and implementation of a dental hygiene care plan. It also includes oral health education, counseling, and health screenings.

(b) The practice of dental hygiene does not include any of the following procedures:

(1) Diagnosis and comprehensive treatment planning.

(2) Placing, condensing, carving, or removal of permanent restorations.

(3) Surgery or cutting on hard and soft tissue including, but not limited to, the removal of teeth and the cutting and suturing of soft tissue.

(4) Prescribing medication.

(5) Administering local or general anesthesia or oral or parenteral conscious sedation, except for the administration of nitrous oxide and oxygen, whether administered alone or in combination with each other, or local anesthesia pursuant to Section 1909.

1909. A registered dental hygienist is authorized to perform the following procedures under direct supervision, after submitting to the California Dental Hygiene Board evidence of satisfactory completion of a California Dental Hygiene Board-approved course of instruction in the procedures:

(a) Soft-tissue curettage.

(b) Administration of local anesthesia.

(c) Administration of nitrous oxide and oxygen, whether administered alone or in combination with each other.

1910. A registered dental hygienist is authorized to perform the following procedures under general supervision:

(a) Preventive and therapeutic interventions, including oral prophylaxis, scaling, and root planing.

(b) Application of topical, therapeutic, and subgingival agents used for the control of caries and periodontal disease.

1 (c) The taking of impressions for bleaching trays and application
2 and activation of agents with nonlaser, light-curing devices.

3 (d) The taking of impressions for bleaching trays and placements
4 of in-office, tooth-whitening devices.

5 1911. (a) A registered dental hygienist may provide, without
6 supervision, educational services, oral health training programs,
7 and oral health screenings.

8 (b) A registered dental hygienist shall refer any screened patients
9 with possible oral abnormalities to a dentist for a comprehensive
10 examination, diagnosis, and treatment plan.

11 (c) In any public health program created by federal, state, or
12 local law or administered by a federal, state, county, or local
13 governmental entity, a registered dental hygienist may provide,
14 without supervision, dental hygiene preventive services in addition
15 to oral screenings, including, but not limited to, the application of
16 fluorides and pit and fissure sealants.

17 1912. Any procedure performed or service provided by a
18 registered dental hygienist that does not specifically require direct
19 supervision shall require general supervision, so long as it does
20 not give rise to a situation in the dentist's office requiring
21 immediate services for alleviation of severe pain, or immediate
22 diagnosis and treatment of unforeseeable dental conditions that,
23 if not immediately diagnosed and treated, would lead to serious
24 disability or death.

25 1913. Unless otherwise specified in this chapter, a registered
26 dental hygienist may perform any procedure or provide any service
27 within the scope of his or her practice in any setting, so long as
28 the procedure is performed or the service is provided under the
29 appropriate level of supervision required by this article.

30 1914. A registered dental hygienist may use any material or
31 device approved for use in the performance of a service or
32 procedure within his or her scope of practice under the appropriate
33 level of supervision, if he or she has the appropriate education and
34 training required to use the material or device.

35 1915. No person other than a registered dental hygienist or a
36 licensed dentist may engage in the practice of dental hygiene or
37 perform dental hygiene procedures on patients, including, but not
38 limited to, supragingival and subgingival scaling, dental hygiene
39 assessment, and treatment planning, except for the following
40 persons:

1 (a) A student enrolled in a dental or a dental hygiene school
2 who is performing procedures as part of the regular curriculum of
3 that program under the supervision of the faculty of that program.

4 (b) A dental assistant acting in accordance with the rules of the
5 dental board in performing the following procedures:

6 (1) Applying nonaerosol and noncaustic topical agents.

7 (2) Applying topical fluoride.

8 (3) Taking impression for bleaching trays.

9 (c) A registered dental assistant acting in accordance with the
10 rules of the dental board in performing the following procedures:

11 (1) Polishing the coronal surfaces of teeth.

12 (2) Applying bleaching agents.

13 (3) Activating bleaching agents with a nonlaser light-curing
14 device.

15 (4) Applying pit and fissure sealant.

16 (d) A registered dental assistant in extended functions acting in
17 accordance with the rules of the dental board in applying pit and
18 fissure sealants.

19 (e) A registered dental hygienist licensed in another jurisdiction
20 performing a clinical demonstration for educational purposes.

21 1916. (a) An applicant for licensure under this article shall
22 furnish fingerprint images for submission to state and federal
23 criminal justice agencies, including, but not limited to, the Federal
24 Bureau of Investigation, in order to establish the identity of the
25 applicant and for the other purposes described in this section.

26 (b) The California Dental Hygiene Board shall submit the
27 fingerprint images to the Department of Justice for the purposes
28 of obtaining criminal offender record information regarding state
29 and federal level convictions and arrests, including arrests for
30 which the Department of Justice establishes that the person is free
31 on bail or on his or her own recognizance pending trial or appeal.

32 (c) When received, the Department of Justice shall forward to
33 the Federal Bureau of Investigation requests for federal summary
34 criminal history information received pursuant to this section. The
35 Department of Justice shall review the information returned from
36 the Federal Bureau of Investigation and compile and disseminate
37 response to the California Dental Hygiene Board.

38 (d) The Department of Justice shall provide a response to the
39 California Dental Hygiene Board pursuant to subdivision (p) of
40 Section 11105 of the Penal Code.

1 (e) The California Dental Hygiene Board shall request from the
2 Department of Justice subsequent arrest notification service, as
3 provided pursuant to Section 11105.2 of the Penal Code.

4 (f) The information obtained as a result of the fingerprinting
5 shall be used in accordance with Section 11105 of the Penal Code,
6 and to determine whether the applicant is subject to denial of
7 licensure pursuant to Division 1.5 (commencing with Section 475);
8 or Section 1628.5.

9 (g) The Department of Justice shall charge a fee sufficient to
10 cover the cost of processing the request described in this section.

11 1917. The California Dental Hygiene Board shall license as a
12 registered dental hygienist a person who satisfies all of the
13 following requirements:

14 (a) Completion of an educational program for registered dental
15 hygienists, approved by the California Dental Hygiene Board,
16 accredited by the Commission on Dental Accreditation, and
17 conducted by a degree-granting, postsecondary institution.

18 (b) Satisfactory performance on a clinical examination and an
19 examination in California law and ethics as prescribed by the
20 California Dental Hygiene Board.

21 (c) Satisfactory completion of a national written dental hygiene
22 examination approved by the California Dental Hygiene Board.

23 1917.1. (a) The California Dental Hygiene Board may grant
24 a license as a registered dental hygienist to an applicant who has
25 not taken a clinical examination before the California Dental
26 Hygiene Board, if the applicant submits all of the following to the
27 California Dental Hygiene Board:

28 (1) A completed application form and all fees required by the
29 California Dental Hygiene Board.

30 (2) Proof of a current license as a registered dental hygienist
31 issued by another state that is not revoked, suspended, or otherwise
32 restricted.

33 (3) Proof that the applicant has been in clinical practice as a
34 registered dental hygienist or has been a full-time faculty member
35 in an accredited dental hygiene education program for a minimum
36 of 750 hours per year for at least five years preceding the date of
37 his or her application under this section. The clinical practice
38 requirement shall be deemed met if the applicant provides proof
39 of at least three years of clinical practice and commits to
40 completing the remaining two years of clinical practice by filing

1 with the California Dental Hygiene Board a copy of a pending
2 contract to practice dental hygiene in any of the following facilities:

3 (A) A primary care clinic licensed under subdivision (a) of
4 Section 1204 of the Health and Safety Code.

5 (B) A primary care clinic exempt from licensure pursuant to
6 subdivision (c) of Section 1206 of the Health and Safety Code.

7 (C) A clinic owned or operated by a public hospital or health
8 system.

9 (D) A clinic owned and operated by a hospital that maintains
10 the primary contract with a county government to fill the county's
11 role under Section 17000 of the Welfare and Institutions Code.

12 (4) Satisfactory performance on a California law and ethics
13 examination and any examination that may be required by the
14 California Dental Hygiene Board.

15 (5) Proof that the applicant has not been subject to disciplinary
16 action by any state in which he or she is or has been previously
17 licensed as a registered dental hygienist or dentist. If the applicant
18 has been subject to disciplinary action, the California Dental
19 Hygiene Board shall review that action to determine if it warrants
20 refusal to issue a license to the applicant.

21 (6) Proof of graduation from a school of dental hygiene
22 accredited by the Commission on Dental Accreditation.

23 (7) Proof of satisfactory completion of the Dental Hygiene
24 National Board Examination and of a state or regional clinical
25 licensure examination.

26 (8) Proof that the applicant has not failed the examination for
27 licensure to practice dental hygiene under this chapter more than
28 once or once within five years prior to the date of his or her
29 application for a license under this section.

30 (9) Documentation of completion of a minimum of 25 units of
31 continuing education earned in the two years preceding application,
32 including completion of any continuing education requirements
33 imposed by the California Dental Hygiene Board on registered
34 dental hygienists licensed in this state at the time of application.

35 (10) Any other information as specified by the California Dental
36 Hygiene Board to the extent that it is required of applicants for
37 licensure by examination under this article.

38 (b) The California Dental Hygiene Board may periodically
39 request verification of compliance with the requirements of
40 paragraph (3) of subdivision (a), and may revoke the license upon

1 a finding that the employment requirement or any other
2 requirement of paragraph (3) of subdivision (a) has not been met.

3 (c) The California Dental Hygiene Board shall provide in the
4 application packet to each out-of-state dental hygienist pursuant
5 to this section the following information:

6 (1) The location of dental manpower shortage areas in the state.

7 (2) Any not-for-profit clinics, public hospitals, and accredited
8 dental hygiene education programs seeking to contract with
9 licensees for dental hygiene service delivery or training purposes.

10 (d) The California Dental Hygiene Board shall review the impact
11 of this section on the availability of actively practicing registered
12 dental hygienists in California and report to the appropriate policy
13 and fiscal committees of the Legislature by January 1, 2012. The
14 report shall include a separate section providing data specific to
15 registered dental hygienists who intend to fulfill the alternative
16 clinical practice requirements of subdivision (a). The report shall
17 include, but shall not be limited to, the following:

18 (1) The number of applicants from other states who have sought
19 licensure.

20 (2) The number of registered dental hygienists from other states
21 licensed pursuant to this section, the number of licenses not
22 granted, and the reason why the license was not granted.

23 (3) The practice location of registered dental hygienists licensed
24 pursuant to this section. In identifying a registered dental
25 hygienist's location of practice, the California Dental Hygiene
26 Board shall use medical service study areas or other appropriate
27 geographic descriptions for regions of the state.

28 (4) The number of registered dental hygienists licensed pursuant
29 to this section who establish a practice in a rural area or in an area
30 designated as having a shortage of practicing registered dental
31 hygienists or no registered dental hygienists or in a safety net
32 facility identified in paragraph (3) of subdivision (a).

33 (5) The length of time registered dental hygienists licensed
34 pursuant to this section practiced in the reported location.

35 1917.2. (a) The California Dental Hygiene Board shall license
36 as a registered dental hygienist a third- or fourth-year dental student
37 who is in good standing at an accredited California dental school
38 and who satisfies the following requirements:

1 (1) Satisfactorily performs on a clinical examination and an
2 examination in California law and ethics as prescribed by the
3 California Dental Hygiene Board.

4 (2) Satisfactorily completes a national written dental hygiene
5 examination approved by the California Dental Hygiene Board.

6 (b) A dental student who is granted a registered dental hygienist
7 license pursuant to this section may only practice in a dental
8 practice that serves patients who are insured under Denti-Cal, the
9 Healthy Families Program, or other government programs, or a
10 dental practice that has a sliding scale fee system based on income.

11 (c) Upon receipt of a license to practice dentistry pursuant to
12 Section 1634, a registered dental hygienist license issued pursuant
13 to this subdivision is automatically revoked.

14 (d) The dental hygienist license is granted for two years upon
15 passage of the dental hygiene examination, without the ability for
16 renewal.

17 (e) Notwithstanding subdivision (d), if a dental student fails to
18 remain in good standing at an accredited California dental school,
19 or fails to graduate from the dental program, a registered dental
20 hygienist license issued pursuant to this section shall be revoked.
21 The student shall be responsible for submitting appropriate
22 verifying documentation to the California Dental Hygiene Board.

23 (f) The provisions of this section shall be reviewed pursuant to
24 Division 1.2 (commencing with Section 473). However, the review
25 shall be limited to the fiscal feasibility and impact on the California
26 Dental Hygiene Board.

27 (g) This section shall become inoperative as of January 1, 2010.
28 1918. The California Dental Hygiene Board shall license as a
29 registered dental hygienist in extended functions a person who
30 meets all of the following requirements:

31 (a) Holds a current license as a registered dental hygienist in
32 California.

33 (b) Completes clinical training approved by the California Dental
34 Hygiene Board in a facility affiliated with a dental school under
35 the direct supervision of the dental school faculty.

36 (c) Performs satisfactorily on an examination required by the
37 California Dental Hygiene Board.

38 1919. The California Dental Hygiene Board shall adopt
39 regulations necessary to define the functions that may be performed
40 by registered dental hygienists in extended functions, whether the

1 functions require direct or general supervision, and the settings
2 within which registered dental hygienists in extended functions
3 may work.

4 1920. (a) A person who holds a current and active license as
5 a registered dental hygienist in extended functions or a registered
6 dental hygienist in alternative practice on January 1, 2008, shall
7 automatically be issued a license as a registered dental hygienist,
8 unless the person holds a current and active registered dental
9 hygienist license.

10 (b) A registered dental hygienist license issued pursuant to this
11 section shall expire on the same date as the person's registered
12 dental hygienist, registered dental hygienist in alternative practice,
13 or registered dental hygienist in extended functions license, and
14 shall be subject to the same renewal and other requirements
15 imposed by law or regulation on a license.

16 1922. The California Dental Hygiene Board shall license as a
17 registered dental hygienist in alternative practice a person who
18 demonstrates satisfactory performance on an examination in
19 California law and ethics required by the California Dental Hygiene
20 Board and who meets either of the following requirements:

21 (a) Holds a current California license as a registered dental
22 hygienist and meets the following requirements:

23 (1) Has been engaged in the practice of dental hygiene, as
24 defined in Section 1908, as a registered dental hygienist in any
25 setting, including, but not limited to, educational settings and public
26 health settings, for a minimum of 2,000 hours during the
27 immediately preceding 36 months.

28 (2) Has successfully completed a bachelor's degree or its
29 equivalent from a college or institution of higher education that is
30 accredited by a national agency recognized by the Council on
31 Postsecondary Accreditation or the United States Department of
32 Education, and a minimum of 150 hours of additional educational
33 requirements, as prescribed by the California Dental Hygiene
34 Board by regulation, that are consistent with good dental and dental
35 hygiene practice, including, but not necessarily limited to, dental
36 hygiene technique and theory including gerontology and medical
37 emergencies, and business administration and practice
38 management.

39 (b) Has received a letter of acceptance into the employment
40 utilization phase of the Health Manpower Pilot Project No. 155

1 established by the Office of Statewide Health Planning and
2 Development pursuant to Article 1 (commencing with Section
3 128125) of Chapter 3 of Part 3 of Division 107 of the Health and
4 Safety Code.

5 1924. A person licensed as a registered dental hygienist who
6 has completed the prescribed classes through the Health Manpower
7 Pilot Project (HMPP) and who has established an independent
8 practice under the HMPP by June 30, 1997, shall be deemed to
9 have satisfied the licensing requirements under Section 1922, and
10 shall be authorized to continue to operate the practice he or she
11 presently operates, so long as he or she follows the requirements
12 for prescription and functions as specified in Sections 1922, 1925,
13 1926, 1927, 1928, 1930, and 1931, and subdivision (b) of Section
14 1929, and as long as he or she continues to personally practice and
15 operate the practice or until he or she sells the practice to a licensed
16 dentist.

17 1925. A registered dental hygienist in alternative practice may
18 practice, pursuant to Sections 1922, 1923, and 1924, as an
19 employee of a dentist or of another registered dental hygienist in
20 alternative practice, as an independent contractor, as a sole
21 proprietor of an alternative dental hygiene practice, as an employee
22 of a primary care clinic or specialty clinic that is licensed pursuant
23 to Section 1204 of the Health and Safety Code, as an employee of
24 a primary care clinic exempt from licensure pursuant to subdivision
25 (c) of Section 1206 of the Health and Safety Code, as an employee
26 of a clinic owned or operated by a public hospital or health system,
27 or as an employee of a clinic owned and operated by a hospital
28 that maintains the primary contract with a county government to
29 fill the county's role under Section 17000 of the Welfare and
30 Institutions Code.

31 1926. A registered dental hygienist in alternative practice may
32 perform the duties authorized pursuant to Sections 1922, 1923,
33 and 1924 in the following settings:

- 34 (a) Residences of the homebound.
- 35 (b) Schools.
- 36 (c) Residential facilities and other institutions.
- 37 (d) Dental health professional shortage areas, as certified by the
38 Office of Statewide Health Planning and Development in
39 accordance with existing office guidelines.

1 1927. A registered dental hygienist in alternative practice shall
2 not do any of the following:

3 (a) Infer, purport, advertise, or imply that he or she is in any
4 way able to provide dental services or make any type of dental
5 health diagnosis beyond evaluating a patient's dental hygiene
6 status, providing a dental hygiene treatment plan, and providing
7 the associated dental hygiene services.

8 (b) Hire a registered dental hygienist to provide direct patient
9 services other than a registered dental hygienist in alternative
10 practice.

11 1928. A registered dental hygienist in alternative practice may
12 submit or allow to be submitted any insurance or third-party claims
13 for patient services performed as authorized pursuant to this article.

14 1929. (a) A registered dental hygienist in alternative practice
15 may hire other registered dental hygienists in alternative practice
16 to assist in his or her practice.

17 (b) A registered dental hygienist in alternative practice may hire
18 and supervise dental assistants performing intraoral retraction and
19 suctioning.

20 1930. A registered dental hygienist in alternative practice shall
21 provide to the California Dental Hygiene Board documentation of
22 an existing relationship with at least one dentist for referral,
23 consultation, and emergency services.

24 1931. (a) A registered dental hygienist in alternative practice
25 may perform dental hygiene services for a patient who presents to
26 the registered hygienist in alternative practice a written prescription
27 for dental hygiene services issued by a dentist or physician and
28 surgeon licensed to practice in this state who has performed a
29 physical examination and a diagnosis of the patient prior to the
30 prescription being provided. The prescription shall be valid for a
31 time period based on the dentist's or physician and surgeon's
32 professional judgment, but not to exceed 15 months from the date
33 that it was issued.

34 (b) The California Dental Hygiene Board shall seek to obtain
35 an injunction against any registered dental hygienist in alternative
36 practice who provides services pursuant to this section, if the
37 California Dental Hygiene Board has reasonable cause to believe
38 that the services are being provided to a patient who has not
39 received a prescription for those services from a dentist or
40 physician and surgeon licensed to practice in this state.

1932. (a) The California Dental Hygiene Board may, in its sole discretion, issue a probationary license to an applicant who has satisfied all requirements for licensure as a registered dental hygienist, a registered dental hygienist in alternative practice, or a registered dental hygienist in extended functions. The California Dental Hygiene Board may require, as a term or condition of issuing the probationary license, that the applicant comply with certain additional requirements, including, but not limited to, the following:

(1) Successfully completing a professional competency examination.

(2) Submitting to a medical or psychological evaluation.

(3) Submitting to continuing medical or psychological treatment.

(4) Abstaining from the use of alcohol or drugs.

(5) Submitting to random fluid testing for alcohol or controlled substance abuse.

(6) Submitting to continuing participation in a California Dental Hygiene Board-approved rehabilitation program.

(7) Restricting the type or circumstances of practice.

(8) Submitting to continuing education and coursework.

(9) Complying with requirements regarding notifying the California Dental Hygiene Board of any change of employer or employment.

(10) Complying with probation monitoring.

(11) Complying with all laws and regulations governing the practice of dentistry.

(12) Limiting his or her practice to a supervised, structured environment in which his or her activities are supervised by a specified person.

(b) The term of a probationary license is three years. During the term of the license, the licensee may petition the California Dental Hygiene Board for a modification of a term or condition of the license or for the issuance of a license that is not probationary.

(c) The proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the California Dental Hygiene Board shall have all the powers granted in that chapter.

1 1933. A licensee shall be issued a substitute license upon
2 request and payment of the required fee. The request shall be
3 accompanied by an affidavit or declaration containing satisfactory
4 evidence of the loss or destruction of the license certificate.

5 1934. A licensee who changes his or her address of record shall
6 notify the California Dental Hygiene Board within 30 days of the
7 change. A licensee who changes his or her legal name shall provide
8 the California Dental Hygiene Board with documentation of the
9 change within 10 days.

10 1935. If not renewed, a license issued under the provisions of
11 this article, unless specifically excepted, expires at 12 midnight
12 on the last day of the month of the legal birth date of the licensee
13 during the second year of a two-year term. To renew an unexpired
14 license, the licensee shall, before the time at which the license
15 would otherwise expire, apply for renewal on a form prescribed
16 by the California Dental Hygiene Board and pay the renewal fee
17 prescribed by this article.

18 1936. Except as otherwise provided in this article, an expired
19 license may be renewed at any time within five years after its
20 expiration by filing an application for renewal on a form prescribed
21 by the California Dental Hygiene Board and payment of all accrued
22 renewal and delinquency fees. If the license is renewed after its
23 expiration, the licensee, as a condition precedent to renewal, shall
24 also pay the delinquency fee prescribed by this article. Renewal
25 under this section shall be effective on the date on which the
26 application is filed, on the date on which the renewal fee is paid,
27 or on the date on which the delinquency fee, if any, is paid,
28 whichever last occurs. If so renewed, the license shall continue in
29 effect until the expiration date provided in Section 1935 that next
30 occurs after the effective date of the renewal.

31 1936.1. (a) If the California Dental Hygiene Board determines
32 that the public health and safety would be served by requiring all
33 holders of licenses under this article to continue their education
34 after receiving a license, the California Dental Hygiene Board may
35 require, as a condition to license renewal, that licensees submit
36 assurances satisfactory to the California Dental Hygiene Board
37 that they will, during the succeeding two-year period, inform
38 themselves of the developments in the practice of dental hygiene
39 occurring since the original issuance of their licenses by pursuing
40 one or more courses of study satisfactory to the California Dental

1 Hygiene Board, or by other means deemed equivalent by the
2 California Dental Hygiene Board. The California Dental Hygiene
3 Board shall adopt regulations providing for the suspension of the
4 licenses at the end of the two-year period until compliance with
5 the assurances provided for in this section is accomplished.

6 (b) The California Dental Hygiene Board may also, as a
7 condition of license renewal, require licensees to successfully
8 complete a portion of the required continuing education hours in
9 specific areas adopted in regulations by the California Dental
10 Hygiene Board. The California Dental Hygiene Board may
11 prescribe this mandatory coursework within the general areas of
12 patient care, health and safety, and law and ethics. The mandatory
13 coursework prescribed by the California Dental Hygiene Board
14 shall not exceed seven and one-half hours per renewal period. Any
15 mandatory coursework required by the California Dental Hygiene
16 Board shall be credited toward the continuing education
17 requirements established by the California Dental Hygiene Board
18 pursuant to subdivision (a).

19 (c) The providers of courses referred to in this section shall be
20 approved by the California Dental Hygiene Board.

21 1937. A suspended license is subject to expiration and shall
22 be renewed as provided in this article. The renewal does not entitle
23 the licensee, while the license remains suspended and until it is
24 reinstated, to engage in the licensed activity or in any other activity
25 or conduct in violation of the order or judgment by which the
26 license was suspended.

27 1938. A revoked license is subject to expiration as provided
28 in this article. A revoked license may not be renewed. If it is
29 reinstated after its expiration, the licensee, as a condition precedent
30 to its reinstatement, shall pay a reinstatement fee in an amount
31 equal to the renewal fee in effect on the last regular renewal date
32 before the date on which it is reinstated and the delinquency fee,
33 if any, accrued at the time of its revocation.

34 1939. A license that is not renewed within five years after its
35 expiration may not be renewed, restored, reinstated, or reissued.
36 The holder of the license may apply for and obtain a new license
37 upon meeting all of the requirements of a new applicant prescribed
38 in this article.

1 1940. (a) A licensee who desires an inactive license shall
2 submit an application to the California Dental Hygiene Board on
3 a form provided by the California Dental Hygiene Board.

4 (b) In order to restore an inactive license to active status, the
5 licensee shall submit an application to the California Dental
6 Hygiene Board on a form provided by the California Dental
7 Hygiene Board, accompanied by evidence that the licensee has
8 completed the required number of hours of approved continuing
9 education in compliance with this article within the last two years
10 preceding the date of the application.

11 (c) The holder of an inactive license shall continue to pay to the
12 California Dental Hygiene Board the required biennial renewal
13 fee.

14 (d) Within 30 days of receiving a request either to restore an
15 inactive license or to inactivate a license, the California Dental
16 Hygiene Board shall inform the applicant in writing whether the
17 application is complete and accepted for filing or is deficient and,
18 if so, the specific information required to complete the application.

19 1941. It is the intent of this article that the California Dental
20 Hygiene Board grant or renew approval of only those educational
21 programs for a registered dental hygienist, a registered dental
22 hygienist in alternative practice, and a registered dental hygienist
23 in extended functions that continuously maintain a high quality
24 standard of instruction.

25 1943. (a) The California Dental Hygiene Board may deny an
26 application to take an examination for licensure as a registered
27 dental hygienist, a registered dental hygienist in alternative practice,
28 or a registered dental hygienist in extended functions at any time
29 prior to licensure for any of the following reasons:

30 (1) The applicant committed an act that is a ground for license
31 suspension or revocation under this code or that is a ground for
32 the denial of licensure under Section 480.

33 (2) The applicant committed or aided and abetted the
34 commission of any act for which a license is required under this
35 chapter.

36 (3) Another state or territory suspended or revoked the license
37 that it had issued to the applicant on a ground that constitutes a
38 basis in this state for the suspension or revocation of licensure
39 under this article.

(b) The proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the California Dental Hygiene Board shall have all of the powers granted therein.

1944. (a) The California Dental Hygiene Board shall establish by resolution the amount of the fees that relate to the licensing of a registered dental hygienist, a registered dental hygienist in alternative practice, and a registered dental hygienist in extended functions. The fees are subject to the following limitations:

(1) The application fee for an original license shall not exceed twenty dollars (\$20).

(2) The fee for examination for licensure as a registered dental hygienist shall not exceed two hundred twenty dollars (\$220).

(3) For third- and fourth-year dental students, the fee for examination for licensure as a registered dental hygienist shall not exceed the actual cost of the examination.

(4) The fee for examination for licensure as a registered dental hygienist in extended functions shall not exceed two hundred fifty dollars (\$250).

(5) The fee for examination for licensure as a registered dental hygienist in alternative practice shall not exceed the actual cost of administering the examination.

(6) The biennial renewal fee shall not exceed eighty dollars (\$80).

(7) The delinquency fee shall not exceed twenty-five dollars (\$25) or one-half of the renewal fee, whichever is greater. Any delinquent license may be restored only upon payment of all fees, including the delinquency fee, and compliance with all other applicable requirements of this article.

(8) The fee for issuance of a duplicate license to replace one that is lost or destroyed, or in the event of a name change, shall not exceed twenty-five dollars (\$25) or one-half of the renewal fee, whichever is greater.

(9) The fee for each curriculum review and site evaluation for educational programs for dental hygienists that are not accredited by a California Dental Hygiene Board-approved agency, the Council for Private Postsecondary and Vocational Education, or the Chancellor's office of the California Community Colleges shall not exceed one thousand four hundred dollars (\$1,400).

1 (10) The fee for each review of courses required for licensure
2 that are not accredited by a California Dental Hygiene
3 Board-approved agency, the Council for Private Postsecondary
4 and Vocational Education, or the Chancellor's office of the
5 California Community Colleges shall not exceed three hundred
6 dollars (\$300).

7 (11) The fee for a provider of continuing education shall not
8 exceed five hundred dollars (\$500) per year.

9 (12) The amount of fees payable in connection with permits
10 issued under Section 1962 is as follows:

11 (A) The initial permit fee is an amount equal to the renewal fee
12 for the applicant's license to practice dental hygiene in effect on
13 the last regular renewal date before the date on which the permit
14 is issued.

15 (B) If the permit will expire less than one year after its issuance,
16 then the initial permit fee is an amount equal to 50 percent of the
17 renewal fee in effect on the last regular renewal date before the
18 date on which the permit is issued.

19 (b) The renewal and delinquency fees shall be fixed by the
20 California Dental Hygiene Board at not more than the current
21 amount of the renewal fee for a license to practice under this article
22 nor less than five dollars (\$5).

23 (c) Fees fixed by the California Dental Hygiene Board pursuant
24 to this section shall not be subject to the approval of the Office of
25 Administrative Law.

26 (d) Fees collected pursuant to this section shall be collected by
27 the California Dental Hygiene Board and deposited into the State
28 Dental Hygiene Fund, which is hereby created. All money in this
29 fund shall, *upon appropriation by the Legislature in the annual*
30 *Budget Act*, be used to implement the provisions of this article.

31 (e) No fees or charges other than those listed in this section shall
32 be levied by the California Dental Hygiene Board in connection
33 with the licensure of registered dental hygienists, registered dental
34 hygienists in alternative practice, or registered dental hygienists
35 in extended functions.

36 1945. On January 1, 2008, a percentage of the funds in the
37 State Dental Assistant Fund shall be transferred to the State Dental
38 Hygiene Fund based on the number of registered dental hygienists,
39 registered dental hygienists in alternative practice, and registered
40 dental hygienists in extended functions licensed on January 1,

1 2008, compared to all dental auxiliaries licensed by the Committee
2 on Dental Auxiliaries on January 1, 2008.

3 1947. A license issued under this article and a license issued
4 under this chapter to a registered dental hygienist, to a registered
5 dental hygienist in alternative practice, or to a registered dental
6 hygienist in extended functions may be revoked or suspended by
7 the California Dental Hygiene Board for any reason specified in
8 this article for the suspension or revocation of a license to practice
9 dental hygiene.

10 1949. A licensee may have his or her license revoked or
11 suspended, or may be reprimanded or placed on probation by the
12 California Dental Hygiene Board for unprofessional conduct,
13 incompetence, gross negligence, repeated acts of negligence in his
14 or her profession, receiving a license by mistake, or for any other
15 cause applicable to the licensee provided in this article. The
16 proceedings under this article shall be conducted in accordance
17 with Chapter 5 (commencing with Section 11500) of Part 1 of
18 Division 3 of Title 2 of the Government Code, and the California
19 Dental Hygiene Board shall have all the powers granted therein.

20 1950. (a) A licensee may have his or her license revoked or
21 suspended, or may be reprimanded or placed on probation by the
22 California Dental Hygiene Board, for conviction of a crime
23 substantially related to the licensee's qualifications, functions, or
24 duties. The record of conviction or a copy certified by the clerk of
25 the court or by the judge in whose court the conviction is had, shall
26 be conclusive evidence of conviction.

27 (b) The California Dental Hygiene Board shall undertake
28 proceedings under this section upon the receipt of a certified copy
29 of the record of conviction. A plea or verdict of guilty or a
30 conviction following a plea of nolo contendere made to a charge
31 of a felony or of any misdemeanor substantially related to the
32 licensee's qualifications, functions, or duties is deemed to be a
33 conviction within the meaning of this section.

34 (c) The California Dental Hygiene Board may order a license
35 suspended or revoked, or may decline to issue a license when any
36 of the following occur:

- 37 (1) The time for appeal has elapsed.
38 (2) The judgment of conviction has been affirmed on appeal.
39 (3) An order granting probation is made suspending the
40 imposition of sentence, irrespective of a subsequent order under

1 any provision of the Penal Code, including, but not limited to,
2 Section 1203.4 of the Penal Code, allowing a person to withdraw
3 his or her plea of guilty and to enter a plea of not guilty, or setting
4 aside the verdict of guilty, or dismissing the accusation, information
5 or indictment.

6 1951. The California Dental Hygiene Board may discipline a
7 licensee by placing him or her on probation under various terms
8 and conditions that may include, but are not limited to, the
9 following:

10 (a) Requiring the licensee to obtain additional training or pass
11 an examination upon completion of training, or both. The
12 examination may be written or oral examinations, or both, and
13 may be a practical or clinical examination, or both, at the option
14 of the California Dental Hygiene Board.

15 (b) Requiring the licensee to submit to a complete diagnostic
16 examination by one or more physicians appointed by the California
17 Dental Hygiene Board, if warranted by the physical or mental
18 condition of the licensee. If the California Dental Hygiene Board
19 requires the licensee to submit to an examination, the California
20 Dental Hygiene Board shall receive and consider any other report
21 of a complete diagnostic examination given by one or more
22 physicians of the licensee's choice.

23 (c) Restricting or limiting the extent, scope, or type of practice
24 of the licensee.

25 (d) Requiring restitution of fees to the licensee's patients or
26 payers of services unless restitution has already been made.

27 (e) Providing the option of alternative community service in
28 lieu of all or part of a period of suspension in cases other than
29 violations relating to quality of care.

30 1952. It is unprofessional conduct for a person licensed under
31 this article to do any of the following:

32 (a) Obtain or possess in violation of law, or except as directed
33 by a licensed physician and surgeon, dentist, or podiatrist, a
34 controlled substance, as defined in Division 10 (commencing with
35 Section 11000) of the Health and Safety Code, or any dangerous
36 drug as defined in Article 8 (commencing with Section 4211) of
37 Chapter 9.

38 (b) Use a controlled substance, as defined in Division 10
39 (commencing with Section 11000) of the Health and Safety Code,
40 or a dangerous drug as defined in Article 8 (commencing with

1 Section 4211) of Chapter 9, or alcoholic beverages or other
2 intoxicating substances, to an extent or in a manner dangerous or
3 injurious to himself or herself, to any person, or the public to the
4 extent that the use impairs the licensee's ability to conduct with
5 safety to the public the practice authorized by his or her license.

6 (c) ~~By-Be~~ convicted of a charge of violating any federal statute
7 or rules, or any statute or rule of this state, regulating controlled
8 substances, as defined in Division 10 (commencing with Section
9 11000) of the Health and Safety Code, or any dangerous drug, as
10 defined in Article 8 (commencing with Section 4211) of Chapter
11 9, or be convicted of more than one misdemeanor, or any felony,
12 involving the use or consumption of alcohol or drugs, if the
13 conviction is substantially related to the practice authorized by his
14 or her license. The record of conviction or a copy certified by the
15 clerk of the court or by the judge in whose court the conviction is
16 had, shall be conclusive evidence of a violation of this section. A
17 plea or verdict of guilty or a conviction following a plea of nolo
18 contendere is deemed to be a conviction within the meaning of
19 this section; the California Dental Hygiene Board may order the
20 license suspended or revoked, or may decline to issue a license,
21 when the time for appeal has elapsed or the judgment of conviction
22 has been affirmed on appeal, or when an order granting probation
23 is made suspending imposition of sentence, irrespective of a
24 subsequent order under any provision of the Penal Code, including,
25 but not limited to, Section 1203.4 of the Penal Code, allowing a
26 person to withdraw his or her plea of guilty and to enter a plea of
27 not guilty, or setting aside the verdict of guilty, or dismissing the
28 accusation, information or indictment.

29 1953. (a) A registered dental hygienist, registered dental
30 hygienist in alternative practice, or registered dental hygienist in
31 extended functions who performs a service on a patient in a dental
32 office shall identify himself or herself in the patient record by
33 signing his or her name or identification number and initials next
34 to the service performed, and shall date those treatment entries in
35 the record.

36 (b) A repeated violation of this section constitutes unprofessional
37 conduct.

38 1954. (a) It is unprofessional conduct for a person licensed
39 under this article to perform, or hold himself or herself out as able
40 to perform, professional services beyond the scope of his or her

license and field of competence, as established by his or her education, experience, and training. This includes, but is not limited to, using an instrument or device in a manner that is not in accordance with the customary standards and practices of the dental hygiene profession.

(b) This section shall not apply to research conducted by accredited dental schools or dental hygiene schools, or to research conducted pursuant to an investigational device exemption issued by the United States Food and Drug Administration.

1955. (a) (1) A licensee who fails or refuses to comply with a request for a patient's dental hygiene records that is accompanied by that patient's written authorization for release of the records to the California Dental Hygiene Board, within 15 days of receiving the request and authorization, shall pay to the California Dental Hygiene Board a civil penalty of two hundred fifty dollars (\$250) per day for each day that the documents have not been produced after the 15th day, up to a maximum of five thousand dollars (\$5,000) unless the licensee is unable to provide the documents within this time period for good cause.

(2) A health care facility shall comply with a request for the dental hygiene records of a patient that is accompanied by that patient's written authorization for release of records to the California Dental Hygiene Board together with a notice citing this section and describing the penalties for failure to comply with this section. Failure to provide the authorizing patient's dental hygiene records to the California Dental Hygiene Board within 30 days of receiving this request, authorization, and notice shall subject the health care facility to a civil penalty, payable to the ~~bureau~~ *California Dental Hygiene Board*, of up to two hundred fifty dollars (\$250) per day for each day that the documents have not been produced after the 30th day, up to a maximum of five thousand dollars (\$5,000), unless the health care facility is unable to provide the documents within this time period for good cause. This paragraph shall not require health care facilities to assist the California Dental Hygiene Board in obtaining the patient's authorization. The California Dental Hygiene Board shall pay the reasonable cost of copying the dental hygiene records.

(b) (1) A licensee who fails or refuses to comply with a court order issued in the enforcement of a subpoena mandating the release of records to the California Dental Hygiene Board shall

1 pay to the California Dental Hygiene Board a civil penalty of one
2 thousand dollars (\$1,000) per day for each day that the documents
3 have not been produced after the date by which the court order
4 requires the documents to be produced, unless it is determined that
5 the order is unlawful or invalid. Any statute of limitations
6 applicable to the filing of an accusation by the California Dental
7 Hygiene Board shall be tolled during the period the licensee is out
8 of compliance with the court order and during any related appeals.

9 (2) A licensee who fails or refuses to comply with a court order
10 issued in the enforcement of a subpoena mandating the release of
11 records to the California Dental Hygiene Board is guilty of a
12 misdemeanor punishable by a fine payable to the California Dental
13 Hygiene Board not to exceed five thousand dollars (\$5,000). The
14 fine shall be added to the licensee's renewal fee if it is not paid by
15 the next succeeding renewal date. Any statute of limitations
16 applicable to the filing of an accusation by the California Dental
17 Hygiene Board shall be tolled during the period the licensee is out
18 of compliance with the court order and during any related appeals.

19 (3) A health care facility that fails or refuses to comply with a
20 court order issued in the enforcement of a subpoena mandating
21 the release of patient records to the California Dental Hygiene
22 Board, that is accompanied by a notice citing this section and
23 describing the penalties for failure to comply with this section,
24 shall pay to the California Dental Hygiene Board a civil penalty
25 of up to one thousand dollars (\$1,000) per day for each day that
26 the documents have not been produced, up to ten thousand dollars
27 (\$10,000), after the date by which the court order requires the
28 documents to be produced, unless it is determined that the order
29 is unlawful or invalid. Any statute of limitations applicable to the
30 filing of an accusation by the California Dental Hygiene Board
31 against a licensee shall be tolled during the period the health care
32 facility is out of compliance with the court order and during any
33 related appeals.

34 (4) A health care facility that fails or refuses to comply with a
35 court order, issued in the enforcement of a subpoena, mandating
36 the release of records to the California Dental Hygiene Board is
37 guilty of a misdemeanor punishable by a fine payable to the
38 California Dental Hygiene Board not to exceed five thousand
39 dollars (\$5,000). Any statute of limitations applicable to the filing
40 of an accusation by the California Dental Hygiene Board against

1 a licensee shall be tolled during the period the health care facility
2 is out of compliance with the court order and during any related
3 appeals.

4 (c) Multiple acts by a licensee in violation of subdivision (b)
5 shall be punishable by a fine not to exceed five thousand dollars
6 (\$5,000) or by imprisonment in a county jail not exceeding six
7 months, or by both that fine and imprisonment. Multiple acts by
8 a health care facility in violation of subdivision (b) shall be
9 punishable by a fine not to exceed five thousand dollars (\$5,000)
10 and shall be reported to the State Department of Public Health and
11 shall be considered as grounds for disciplinary action with respect
12 to licensure, including suspension or revocation of the license or
13 certificate.

14 (d) A failure or refusal to comply with a court order issued in
15 the enforcement of a subpoena mandating the release of records
16 to the California Dental Hygiene Board constitutes unprofessional
17 conduct and is grounds for suspension or revocation of his or her
18 license.

19 (e) Imposition of the civil penalties authorized by this section
20 shall be in accordance with the Administrative Procedure Act
21 (Chapter 5 (commencing with Section 11500) of Division 3 of
22 Title 2 of the Government Code).

23 (f) For the purposes of this section, a “health care facility” means
24 a clinic or health care facility licensed or exempt from licensure
25 pursuant to Division 2 (commencing with Section 1200) of the
26 Health and Safety Code.

27 1956. It is unprofessional conduct for a person licensed under
28 this article to require, either directly or through an office policy,
29 or knowingly permit the delivery of dental hygiene care that
30 discourages necessary treatment, or permits clearly excessive,
31 incompetent, unnecessary, or grossly negligent treatment, or
32 repeated negligent acts, as determined by the standard of practice
33 in the community.

34 1957. (a) A person whose license has been revoked or
35 suspended, who has been placed on probation, or whose license
36 was surrendered pursuant to a stipulated settlement as a condition
37 to avoid a disciplinary administrative hearing, may petition the
38 California Dental Hygiene Board for reinstatement or modification
39 of penalty, including modification or termination of probation,
40 after a period of not less than the following minimum periods have

1 elapsed from the effective date of the decision ordering disciplinary
2 action:

3 (1) At least three years for reinstatement of a license revoked
4 for unprofessional conduct or surrendered pursuant to a stipulated
5 settlement as a condition to avoid an administrative disciplinary
6 hearing.

7 (2) At least two years for early termination, or modification of
8 a condition, of a probation of three years or more.

9 (3) At least one year for modification of a condition, or
10 reinstatement of a license revoked for mental or physical illness,
11 or termination, or modification of a condition, of a probation of
12 less than three years.

13 (b) The petition shall state any fact required by the California
14 Dental Hygiene Board.

15 (c) The petition may be heard by the California Dental Hygiene
16 Board, or the California Dental Hygiene Board may assign the
17 petition to an administrative law judge designated in Section 11371
18 of the Government Code.

19 (d) In considering reinstatement or modification or penalty, the
20 California Dental Hygiene Board or the administrative law judge
21 hearing the petition may consider the following:

22 (1) All activities of the petitioner since the disciplinary action
23 was taken.

24 (2) The offense for which the petitioner was disciplined.

25 (3) The petitioner's activities during the time the license,
26 certificate, or permit was in good standing.

27 (4) The petitioner's rehabilitative efforts, general reputation for
28 truth, and professional ability.

29 (e) The hearing may be continued from time to time as the
30 ~~bureau~~ *California Dental Hygiene Board* or the administrative law
31 judge as designated in Section 11371 of the Government Code
32 finds necessary.

33 (f) The California Dental Hygiene Board or the administrative
34 law judge may impose necessary terms and conditions on the
35 licensee in reinstating a license, certificate, or permit or modifying
36 a penalty.

37 (g) A petition shall not be considered while the petitioner is
38 under sentence for any criminal offense, including any period
39 during which the petitioner is on court-imposed probation or parole.

1 (h) A petition shall not be considered while there is an
2 accusation or petition to revoke probation pending against the
3 person.

4 (i) The California Dental Hygiene Board may deny without a
5 hearing or argument any petition filed pursuant to this section
6 within a period of two years from the effective date of the prior
7 decision following a hearing under this section. Nothing in this
8 section shall be deemed to alter Sections 822 and 823.

9 1958. A person, company, or association is guilty of a
10 misdemeanor, and upon conviction, shall be punished by
11 imprisonment in a county jail not less than 10 days nor more than
12 one year, or by a fine of not less than one hundred dollars
13 (\$100) nor more than one thousand five hundred dollars (\$1,500),
14 or by both fine and imprisonment, who does any of the following:

15 (a) Assumes the title of “registered dental hygienist,” “registered
16 dental hygienist in alternative ~~practice~~ *practice*,” or “registered
17 dental hygienist in extended functions” or appends the letters
18 “R.D.H.,” “~~R.D.H.A.P.~~” “*R.D.H.A.P.*,” or “R.D.H.E.F.” to his or
19 her name without having had the right to assume the title conferred
20 upon him or her through licensure.

21 (b) Assumes any title, or appends any letters to his or her name,
22 with the intent to represent falsely that he or she has received a
23 dental hygiene degree or a license under this article.

24 (c) Engages in the practice of dental hygiene without causing
25 to be displayed in a conspicuous place in his or her office his or
26 her license under this article to practice dental hygiene.

27 (d) Within 10 days after demand is made by the executive officer
28 of the California Dental Hygiene Board, fails to furnish to the
29 California Dental Hygiene Board the name and address of all
30 persons practicing or assisting in the practice of dental hygiene in
31 the office of the person, company, or association, at any time within
32 60 days prior to the demand, together with a sworn statement
33 showing under and by what license or authority this person,
34 company, or association and any employees are or have been
35 practicing or assisting in the practice of dental hygiene. This sworn
36 statement shall not be used in any prosecution under this section.

37 (e) Is under the influence of alcohol or a controlled substance
38 while engaged in the practice of dental hygiene in actual attendance
39 on patients to an extent that impairs his or her ability to conduct
40 the practice of dental hygiene with safety to patients and the public.

1 1959. A person who holds a valid, unrevoked, and unsuspended
2 certificate as a registered dental hygienist, registered dental
3 hygienist in alternative practice, or registered dental hygienist in
4 extended functions under this article may append the letters
5 “R.D.H.,” “R.D.H.A.P.,” or “R.D.H.E.F.” to his or her name.

6 1960. For the first offense, a person is guilty of a misdemeanor
7 and shall be punishable by a fine of not less than two hundred
8 dollars (\$200) ~~or~~ nor more than three thousand dollars (\$3,000),
9 or by imprisonment in a county jail for not to exceed six months,
10 or both, and for the second or a subsequent offense is guilty of a
11 felony and upon conviction thereof shall be punished by a fine of
12 not less than two thousand dollars (\$2,000) nor more than six
13 thousand dollars (\$6,000), or by imprisonment in the state prison,
14 or by both that fine and imprisonment, who does any of the
15 following:

16 (a) Sells or barter or offers to sell or barter a dental hygiene
17 degree or transcript or a license issued under, or purporting to be
18 issued under, laws regulating licensure of dental hygienists.

19 (b) Purchases or procures by barter a diploma, license, or
20 transcript with intent that it shall be used in evidence of the holder’s
21 qualification to practice dental hygiene, or in fraud of the laws
22 regulating the practice of dental hygiene.

23 (c) With fraudulent intent, makes, attempts to make, counterfeits,
24 or materially alters a diploma, certificate, or transcript.

25 (d) Uses, or attempts or causes to be used, any diploma,
26 certificate, or transcript that has been purchased, fraudulently
27 issued, counterfeited, or materially altered or in order to procure
28 licensure as a registered dental hygienist, registered dental hygienist
29 in alternative practice, or registered dental hygienist in extended
30 functions.

31 (e) In an affidavit required of an applicant for an examination
32 or license under this article, willfully makes a false statement in a
33 material regard.

34 (f) Practices dental hygiene or offers to practice dental hygiene,
35 as defined in this article, either without a license, or when his or
36 her license has been revoked or suspended.

37 (g) Under any false, assumed or fictitious name, either as an
38 individual, firm, corporation or otherwise, or any name other than
39 the name under which he or she is licensed, practices, advertises,
40 or in any other manner indicates that he or she practices or will

1 practice dental hygiene, except a name specified in a valid permit
2 issued pursuant to Section 1962.

3 1961. A person who willfully, under circumstances that cause
4 risk of bodily harm, serious physical or mental illness, or death,
5 practices, attempts to practice, advertises, or holds himself or
6 herself out as practicing dental hygiene without having at the time
7 of so doing a valid, unrevoked, and unsuspended license as
8 provided in this chapter, is guilty of a crime, punishable by
9 imprisonment in a county jail for up to one year. The remedy
10 provided in this section shall not preclude any other remedy
11 provided by law.

12 1962. (a) An association, partnership, corporation, or group
13 of three or more registered dental hygienists, registered dental
14 hygienists in alternative practice, or registered dental hygienists
15 in extended functions engaging in practice under a name that would
16 otherwise be in violation of Section 1960, may practice under that
17 name if the association, partnership, corporation, or group holds
18 an unexpired, unsuspended, and unrevoked permit issued by the
19 California Dental Hygiene Board under this section.

20 (b) An individual registered dental hygienist, registered dental
21 hygienist in alternative practice, or registered dental hygienist in
22 extended functions, or a pair of registered dental hygienists,
23 registered dental hygienists in alternative practice, or registered
24 dental hygienists in extended functions, who practice dental
25 hygiene under a name that would otherwise violate Section 1960
26 may practice under that name if the licensees hold a valid permit
27 issued by the California Dental Hygiene Board under this section.
28 The California Dental Hygiene Board shall issue a written permit
29 authorizing the holder to use a name specified in the permit in
30 connection with the holder's practice if the California Dental
31 Hygiene Board finds all of the following:

32 (1) The applicant or applicants are duly licensed registered
33 dental hygienists, registered dental hygienists in alternative
34 practice, or registered dental hygienists in extended functions.

35 (2) The place where the applicant or applicants practice is owned
36 or leased by the applicant or applicants, and the practice conducted
37 at the place is wholly owned and entirely controlled by the
38 applicant or applicants.

39 (3) The name under which the applicant or applicants propose
40 to operate contains at least one of the following designations:

1 “dental hygiene group,” “dental hygiene practice,” or “dental
2 hygiene office,” contains the family name of one or more of the
3 past, present, or prospective associates, partners, shareholders, or
4 members of the group, and is in conformity with Section 651 and
5 not in violation of subdivisions (i) and (l) of Section 1680.

6 (4) All licensed persons practicing at the location designated in
7 the application hold valid licenses and no charges of unprofessional
8 conduct are pending against any person practicing at that location.

9 (c) A permit issued under this section shall expire and become
10 invalid unless renewed in the manner provided for in this article
11 for the renewal of certificates issued under this article.

12 (d) A permit issued under this section may be revoked or
13 suspended if the California Dental Hygiene Board finds that any
14 requirement for original issuance of a permit is no longer being
15 fulfilled by the permitholder. Proceedings for revocation or
16 suspension shall be governed by the Administrative Procedure
17 Act.

18 (e) If charges of unprofessional conduct are filed against the
19 holder of a permit issued under this section, or a member of an
20 association, partnership, group, or corporation to whom a permit
21 has been issued under this section, proceedings shall not be
22 commenced for revocation or suspension of the permit until a final
23 determination of the charges of unprofessional conduct, unless the
24 charges have resulted in revocation or suspension of a license.

25 1963. The California Dental Hygiene Board may prefer a
26 complaint for violation of any part of this article before any court
27 of competent jurisdiction and may, by its officers, counsel and
28 agents, assist in presenting the law or facts at the trial. The district
29 attorney of each county in this state shall prosecute all violations
30 of this article in their respective counties in which the violations
31 occur.

32 1964. In addition to the other proceedings provided for in this
33 article, on application of the California Dental Hygiene Board, the
34 superior court of any county shall issue an injunction to restrain
35 an unlicensed person from conducting the practice of dental
36 hygiene, as defined in this article.

37 1965. If a person has engaged in or is about to engage in an
38 act that constitutes an offense against this chapter, the superior
39 court of any county, on application of 10 or more persons holding
40 licenses to practice dental hygiene issued under this article, may

1 issue an injunction or other appropriate order restraining that
2 conduct. Proceedings under this section shall be governed by
3 Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of
4 the Code of Civil Procedure.

5 1966. (a) It is the intent of the Legislature that the California
6 Dental Hygiene Board seek ways and means to identify and
7 rehabilitate licensees whose competency may be impaired due to
8 abuse of dangerous drugs or alcohol, so that licensees so afflicted
9 may be treated and returned to the practice of dental hygiene in a
10 manner that will not endanger the public health and safety. It is
11 also the intent of the Legislature that the California Dental Hygiene
12 Board establish a diversion program as a voluntary alternative
13 approach to traditional disciplinary actions.

14 (b) One or more diversion evaluation committees shall be
15 established by the California Dental Hygiene Board. The California
16 Dental Hygiene Board shall establish criteria for the selection of
17 each committee. Each member of a diversion evaluation committee
18 shall receive per diem and expenses as provided in Section 103.

19 1966.1. (a) The California Dental Hygiene Board shall
20 establish criteria for the acceptance, denial, or termination of
21 licensees in a diversion program. Unless ordered by the California
22 Dental Hygiene Board as a condition of a licensee's disciplinary
23 probation, only those licensees who have voluntarily requested
24 diversion treatment and supervision by a diversion evaluation
25 committee shall participate in a diversion program.

26 (b) A licensee who is not the subject of a current investigation
27 may self-refer to the diversion program on a confidential basis,
28 except as provided in subdivision (f).

29 (c) A licensee under current investigation by the California
30 Dental Hygiene Board may also request entry into a diversion
31 program by contacting the California Dental Hygiene Board. The
32 California Dental Hygiene Board may refer the licensee requesting
33 participation in the program to a diversion evaluation committee
34 for evaluation of eligibility. Prior to authorizing a licensee to enter
35 into the diversion program, the California Dental Hygiene Board
36 may require the licensee, while under current investigation for any
37 violations of this article or other violations, to execute a statement
38 of understanding that states that the licensee understands that his
39 or her violations of this article or other statutes, that would

1 otherwise be the basis for discipline, may still be investigated and
2 the subject of disciplinary action.

3 (d) If the reasons for a current investigation of a licensee are
4 based primarily on the self-administration of any controlled
5 substance or dangerous drugs or alcohol under Section 1681, or
6 the illegal possession, prescription, or nonviolent procurement of
7 any controlled substance or dangerous drugs for self-administration
8 that does not involve actual, direct harm to the public, the
9 California Dental Hygiene Board shall close the investigation
10 without further action if the licensee is accepted into the California
11 Dental Hygiene Board's diversion program and successfully
12 completes the requirements of the program. If the licensee
13 withdraws or is terminated from the program by a diversion
14 evaluation committee, the investigation shall be reopened and
15 disciplinary action imposed, if warranted, as determined by the
16 California Dental Hygiene Board.

17 (e) Neither acceptance nor participation in the diversion program
18 shall preclude the California Dental Hygiene Board from
19 investigating or continuing to investigate, or taking disciplinary
20 action or continuing to take disciplinary action against, any licensee
21 for any unprofessional conduct committed before, during, or after
22 participation in the diversion program.

23 (f) All licensees shall sign an agreement of understanding that
24 the withdrawal or termination from the diversion program at a time
25 when a diversion evaluation committee determines the licensee
26 presents a threat to the public's health and safety shall result in the
27 utilization by the California Dental Hygiene Board of diversion
28 treatment records in disciplinary or criminal proceedings.

29 (g) Any licensee terminated from the diversion program for
30 failure to comply with program requirements is subject to
31 disciplinary action by the California Dental Hygiene Board for
32 acts committed before, during, and after participation in the
33 diversion program. A licensee who has been under investigation
34 by the California Dental Hygiene Board and has been terminated
35 from the diversion program by a diversion evaluation committee
36 shall be reported by the diversion evaluation committee to the
37 California Dental Hygiene Board.

38 1966.2. Each diversion evaluation committee shall have the
39 following duties and responsibilities:

1 (a) To evaluate those licensees who request to participate in the
2 diversion program according to the guidelines prescribed by the
3 California Dental Hygiene Board and to consider the
4 recommendations of any licensees designated by the California
5 Dental Hygiene Board to serve as consultants on the admission of
6 the licensee to the diversion program.

7 (b) To review and designate those treatment facilities to which
8 licensees in a diversion program may be referred.

9 (c) To receive and review information concerning a licensee
10 participating in the program.

11 (d) To consider in the case of each licensee participating in a
12 program whether he or she may safely continue or resume the
13 practice of dental hygiene.

14 (e) To perform other related duties as the California Dental
15 Hygiene Board may by regulation require.

16 1966.3. Notwithstanding the provisions of Article 9
17 (commencing with Section 11120) of Chapter 1 of Part 1 of
18 Division 3 of Title 2 of the Government Code, relating to public
19 meetings, a diversion evaluation committee may convene in closed
20 session to consider reports pertaining to any licensee requesting
21 or participating in a diversion program. A committee shall only
22 convene in closed session to the extent that it is necessary to protect
23 the privacy of a licensee.

24 1966.4. Each licensee who requests participation in a diversion
25 program shall agree to cooperate with the treatment program
26 designed by a diversion evaluation committee and to bear all costs
27 related to the program, unless the cost is waived by the California
28 Dental Hygiene Board. Any failure to comply with the provisions
29 of a treatment program may result in termination of the licensee's
30 participation in a program.

31 1966.5. (a) After a diversion evaluation committee, in its
32 discretion, has determined that a licensee has been rehabilitated
33 and the diversion program is completed, the diversion evaluation
34 committee shall purge and destroy all records pertaining to the
35 licensee's participation in the diversion program.

36 (b) Except as authorized by subdivision (f) of Section 1966.1,
37 all California Dental Hygiene Board and diversion evaluation
38 committee records and records of proceedings pertaining to the
39 treatment of a licensee in a program shall be kept confidential and
40 are not subject to discovery or subpoena.

1966.6. The California Dental Hygiene Board shall provide for the representation of any person making reports to a diversion evaluation committee or the California Dental Hygiene Board under this article in any action for defamation for reports or information given to the diversion evaluation committee or the California Dental Hygiene Board regarding a licensee's participation in the diversion program.

SEC. 32. Section 4999.2 of the Business and Professions Code is amended to read:

4999.2. (a) In order to obtain and maintain a registration, in-state or out-of-state telephone medical advice services shall comply with the requirements established by the department. Those requirements shall include, but shall not be limited to, all of the following:

(1) (A) Ensuring that all staff who provide medical advice services are appropriately licensed, certified, or registered as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act, as a dentist or dental hygienist pursuant to Chapter 4 (commencing with Section 1600), as a psychologist pursuant to Chapter 6.6 (commencing with Section 2900), as a marriage and family therapist pursuant to Chapter 13 (commencing with Section 4980), as a licensed clinical social worker pursuant to Chapter 14 (commencing with Section 4990), as an optometrist pursuant to Chapter 7 (commencing with Section 3000), or as a chiropractor pursuant to the Chiropractic Initiative Act, and operating consistent with the laws governing their respective scopes of practice in the state within which they provide telephone medical advice services, except as provided in paragraph (2).

(B) Ensuring that all staff who provide telephone medical advice services from an out-of-state location are health care professionals, as identified in subparagraph (A), who are licensed, registered, or certified in the state within which they are providing the telephone medical advice services and are operating consistent with the laws governing their respective scopes of practice.

(2) Ensuring that all registered nurses providing telephone medical advice services to both in-state and out-of-state business entities registered pursuant to this chapter are licensed pursuant to Chapter 6 (commencing with Section 2700).

1 (3) Ensuring that the telephone medical advice provided is
2 consistent with good professional practice.

3 (4) Maintaining records of telephone medical advice services,
4 including records of complaints, provided to patients in California
5 for a period of at least five years.

6 (5) Ensuring that no staff member uses a title or designation
7 when speaking to an enrollee or subscriber that may cause a
8 reasonable person to believe that the staff member is a licensed,
9 certified, or registered professional described in subparagraph (A)
10 of paragraph (1), unless the staff member is a licensed, certified,
11 or registered professional.

12 (6) Complying with all directions and requests for information
13 made by the department.

14 (b) To the extent permitted by Article VII of the California
15 Constitution, the department may contract with a private nonprofit
16 accrediting agency to evaluate the qualifications of applicants for
17 registration pursuant to this chapter and to make recommendations
18 to the department.

19 SEC. 33. Section 4999.7 of the Business and Professions Code
20 is amended to read:

21 4999.7. (a) Nothing in this section shall limit, preclude, or
22 otherwise interfere with the practices of other persons licensed or
23 otherwise authorized to practice, under any other provision of this
24 division, telephone medical advice services consistent with the
25 laws governing their respective scopes of practice, or licensed
26 under the Osteopathic Initiative Act or the Chiropractic Initiative
27 Act and operating consistent with the laws governing their
28 respective scopes of practice.

29 (b) For the purposes of this chapter, “telephone medical advice”
30 means a telephonic communication between a patient and a health
31 care professional in which the health care professional’s primary
32 function is to provide to the patient a telephonic response to the
33 patient’s questions regarding his or her or a family member’s
34 medical care or treatment. “Telephone medical advice” includes
35 assessment, evaluation, or advice provided to patients or their
36 family members.

37 (c) For the purposes of this chapter, “health care professional”
38 is a staff person described in Section 4999.2 who provides medical
39 advice services and is appropriately licensed, certified, or registered
40 as a registered nurse pursuant to Chapter 6 (commencing with

1 Section 2700), as a physician and surgeon pursuant to Chapter 5
2 (commencing with Section 2000) or the Osteopathic Initiative Act,
3 as a dentist or dental hygienist pursuant to Chapter 4 (commencing
4 with Section 1600), as a psychologist pursuant to Chapter 6.6
5 (commencing with Section 2900), as a marriage and family
6 therapist pursuant to Chapter 13 (commencing with Section 4980),
7 as a licensed clinical social worker pursuant to Chapter 14
8 (commencing with Section 4990), as an optometrist pursuant to
9 Chapter 7 (commencing with Section 3000), or as a chiropractor
10 pursuant to the Chiropractic Initiative Act, and who is operating
11 consistent with the laws governing his or her respective scopes of
12 practice in the state in which he or she provides telephone medical
13 advice services.

14 SEC. 34. Section 44876 of the Education Code is amended to
15 read:

16 44876. The qualifications for a dental hygienist shall be a valid
17 license issued by the California Dental Hygiene Board or by the
18 Dental Board of California and either a health and development
19 credential, a standard designated services credential with a
20 specialization in health, or a services credential with a
21 specialization in health.

22 SEC. 35. Section 1348.8 of the Health and Safety Code is
23 amended to read:

24 1348.8. (a) Every health care service plan that provides,
25 operates, or contracts for telephone medical advice services to its
26 enrollees and subscribers shall do all of the following:

27 (1) Ensure that the in-state or out-of-state telephone medical
28 advice service is registered pursuant to Chapter 15 (commencing
29 with Section 4999) of Division 2 of the Business and Professions
30 Code.

31 (2) Ensure that the staff providing telephone medical advice
32 services for the in-state or out-of-state telephone medical advice
33 service are licensed as follows:

34 (A) For full service health care service plans, the staff hold a
35 valid California license as a registered nurse or a valid license in
36 the state within which they provide telephone medical advice
37 services as a physician and surgeon or physician assistant, and are
38 operating in compliance with the laws governing their respective
39 scopes of practice.

(B) (i) For specialized health care service plans providing, operating, or contracting with a telephone medical advice service in California, the staff shall be appropriately licensed, registered, or certified as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code or the Osteopathic Initiative Act, as a registered nurse pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code, as a dentist or a dental hygienist pursuant to Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code, as a psychologist pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code, as a marriage and family therapist pursuant to Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code, as a licensed clinical social worker pursuant to Chapter 14 (commencing with Section 4990) of Division 2 of the Business and Professions Code, as an optometrist pursuant to Chapter 7 (commencing with Section 3000) of Division 2 of the Business and Professions Code, or as a chiropractor pursuant to the Chiropractic Initiative Act, and operating in compliance with the laws governing their respective scopes of practice.

(ii) For specialized health care service plans providing, operating, or contracting with an out-of-state telephone medical advice service, the staff shall be health care professionals, as identified in clause (i), who are licensed, registered, or certified in the state within which they are providing the telephone medical advice services and are operating in compliance with the laws governing their respective scopes of practice. All registered nurses providing telephone medical advice services to both in-state and out-of-state business entities registered pursuant to this chapter shall be licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code.

(3) Ensure that every full service health care service plan provides for a physician and surgeon who is available on an on-call basis at all times the service is advertised to be available to enrollees and subscribers.

(4) Ensure that staff members handling enrollee or subscriber calls, who are not licensed, certified, or registered as required by paragraph (2), do not provide telephone medical advice. Those staff members may ask questions on behalf of a staff member who

1 is licensed, certified, or registered as required by paragraph (2),
2 in order to help ascertain the condition of an enrollee or subscriber
3 so that the enrollee or subscriber can be referred to licensed staff.
4 However, under no circumstances shall those staff members use
5 the answers to those questions in an attempt to assess, evaluate,
6 advise, or make any decision regarding the condition of an enrollee
7 or subscriber or determine when an enrollee or subscriber needs
8 to be seen by a licensed medical professional.

9 (5) Ensure that no staff member uses a title or designation when
10 speaking to an enrollee or subscriber that may cause a reasonable
11 person to believe that the staff member is a licensed, certified, or
12 registered professional described in Section 4999.2 unless the staff
13 member is a licensed, certified, or registered professional.

14 (6) Ensure that the in-state or out-of-state telephone medical
15 advice service designates an agent for service of process in
16 California and files this designation with the director.

17 (7) Requires that the in-state or out-of-state telephone medical
18 advice service makes and maintains records for a period of five
19 years after the telephone medical advice services are provided,
20 including, but not limited to, oral or written transcripts of all
21 medical advice conversations with the health care service plan's
22 enrollees or subscribers in California and copies of all complaints.
23 If the records of telephone medical advice services are kept out of
24 state, the health care service plan shall, upon the request of the
25 director, provide the records to the director within 10 days of the
26 request.

27 (8) Ensure that the telephone medical advice services are
28 provided consistent with good professional practice.

29 (b) The director shall forward to the Department of Consumer
30 Affairs, within 30 days of the end of each calendar quarter, data
31 regarding complaints filed with the department concerning
32 telephone medical advice services.

33 (c) For the purposes of this section, "telephone medical advice"
34 means a telephonic communication between a patient and a health
35 care professional in which the health care professional's primary
36 function is to provide to the patient a telephonic response to the
37 patient's questions regarding his or her or a family member's
38 medical care or treatment. "Telephone medical advice" includes
39 assessment, evaluation, or advice provided to patients or their
40 family members.

1 SEC. 36. Section 128160 of the Health and Safety Code is
2 amended to read:

3 128160. (a) Pilot projects may be approved in the following
4 fields:

- 5 (1) Expanded role medical auxiliaries.
- 6 (2) Expanded role nursing.
- 7 (3) Expanded role dental auxiliaries, dental hygienists, dental
8 hygienists in alternative practice, or dental hygienists in extended
9 functions.
- 10 (4) Maternal child care personnel.
- 11 (5) Pharmacy personnel.
- 12 (6) Mental health personnel.
- 13 (7) Other health care personnel including, but not limited to,
14 veterinary personnel, chiropractic personnel, podiatric personnel,
15 geriatric care personnel, therapy personnel, and health care
16 technicians.

17 (b) Projects that operate in rural and central city areas shall be
18 given priority.

19 SEC. 37. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 the only costs that may be incurred by a local agency or school
22 district will be incurred because this act creates a new crime or
23 infraction, eliminates a crime or infraction, or changes the penalty
24 for a crime or infraction, within the meaning of Section 17556 of
25 the Government Code, or changes the definition of a crime within
26 the meaning of Section 6 of Article XIII B of the California
27 Constitution.